

**Submission from The Hong Kong Council of Social Service (HKCSS)
in Special consultative status with ECOSOC
to the Committee on Economic, Social and Cultural Rights (CESCR)
on the implementation of the
International Covenant on Economic, Social and Cultural Rights (ICESCR)
in the Hong Kong Special Administrative Region, China**

March 2014

Introduction of The Hong Kong Council of Social Service

The Hong Kong Council of Social Service (HKCSS), a NGO in Special Consultative Status with the Economic and Social Council of the United Nations, is an umbrella organization of 419 Agency members, which provides around 90% various kind of social services in Hong Kong. Our members are all independent NGOs, though many of them are receiving financial subvention from HKSAR Government for service provision. HKCSS plays a pioneering role and is committed to drive social development.

HKCSS is committed to the promotion and implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in Hong Kong through the following work and programmes:

1. Participation of UN System

- To collect concerns and views from our Agency members on various UN conventions such as ICESCR and CEDAW and submit to UN on regular basis
- To join the UN events such as annual sessions of the Commission for Social Development (CSocD)
- To work with the International Council on Social Welfare (ICSW) in promoting UN work such as on Social Protection Floor and The Millennium Development Goals (MDGs)

2. Participation of Human Rights Forum

- To join the HKSAR government-organized Human Rights Forum and participate in the discussions and monitoring of ICESCR and other related UN Conventions
- To participate in the NGO-organized Forums and meetings on the discussion of UN Convention and related human rights issue

3. Organization of Human Rights-related events

- To organize conferences and events with an aim to promoting UN Conventions and Human rights-related issues
- To organize conferences and events in echoing the International Day on Family or Youth, etc

4. Research and Advocacy

- To conduct research and other evidence based studies on social policies which have significant impact on the society especially those on social development and poverty
- To monitor and analyze social development statistics and trends, and maintain communications with policy makers and related parties on public concerning social /welfare policy

Concerns of HKCSS members in the context of Article 2, 6, 7, 9, 11, 13 and 14 of the Covenant

ARTICLE 2: PROGRESSIVE REALIZATION BY IMMEDIATE LEGISLATIVE & ALL OTHER APPROPRIATE MEANS TO THE MAXIMUM OF ITS AVAILABLE RESOURCES, WITH A VIEW TO ACHIEVING THE FULL REALIZATION OF COVENANT RIGHTS

The Equal Opportunities Commission (EOC)

Situation

1. The Equal Opportunities Commission (EOC) is a statutory body in Hong Kong, established in 1996, responsible for the implementation of HKSAR's anti-discrimination laws, the functions and independence of the EOC however are undermined due to structural factors pertaining to the appointment of its Chairpersons, its source funding and various governance issues that have undermined public confidence in the effectiveness of the body.

Recommendations

2. The Government should ensure a transparent process of appointment of the EOC Chairperson and compromise its independence.

Ethnic Minorities

Situation

3. Though the Race Discrimination Ordinance (RDO) has been operated since 2009, the recognition of RDO among ethnic minorities retains low. Those suffering direct and indirect racial discrimination cannot make use of the RDO to protect and that lead to inaccessibility to this Ordinance.
4. In addition, since Administrative Guideline on Promotion of Racial Equality implemented in 2010, the Guideline is not strictly enforced in HKSAR Government. Ethnic minority groups are still facing the language barrier and limited information accessibility when using public services and government subsidized services such as healthcare and social services.

Recommendations

5. The government should develop comprehensive and long-term policy as well as strategic directions to support ethnic minorities, including but not limited to enactment and promotion of RDO.
6. The government should strictly enforce the Administrative Guidelines on Promotion of Racial Equality in government bureaux, departments and public bodies. The government bureaux and departments should take the lead to promote racial equality and ensure equal access to public services in key areas concerned. Besides, the government should monitor the NGOs and business sector in adoption of guideline and provide adequate support. The Administrative Guideline should be reviewed regularly with response to perspectives and concerns among ethnic minority groups.
7. The government should provide stable and accessible interpretation and translation service for public services and mainstream social services with comprehensive and international benchmarking of quality interpretation service.

ARTICLE 6: FREE CHOICE OF OCCUPATION FOR A LIVING AND POLICIES ON VOCATIONAL TRAINING AND FULL EMPLOYMENT

Ethnic Minorities' Employment

Situation

8. Language, qualification recognition and stereotyping are the major problems the ethnic minority groups facing in the labor market. Many of them find difficulties

in job hunting due to their incompetence in Chinese reading and writing, as well as stereotyping. Some of them can only seek for low-skilled jobs as their overseas qualifications and professional experience are not being recognized.

Recommendations

9. The government should enhance job training and support the ethnic minority groups to attend Chinese language courses. With better Chinese language competence, ethnic minorities may have better job opportunities and career advancement.
10. We urge the government to re-examine the Chinese language requirement of different job duties, in respect of listening, speaking, reading and writing, so that more ethnic minorities can enter the labor market.
11. Training, assessment tool and qualification standard under the Chinese as a Second Language (CSL) Framework should be available to ethnic minority adults who are not in schools but in need of a proper Chinese language qualification for education or career advancement of various kinds.

ARTICLE 7: RIGHT TO ENJOY JUST AND FAVOURABLE CONDITIONS OF WORKS

Minimum Wage

Situation

12. The Statutory Minimum Wage (SMW) was implemented since May 2011. The current hourly rate was increased from HK\$28/hour in 2011 to HK\$30/hour in 2013. However, many labour and civil groups found that the current rate is barely adequate to meet the basic needs of grassroots labour. HKCSS, based on the findings of a study on basic needs and by referring to the number of labour force in the household, advocated for HK\$32-36/hour (HK\$36/hour if the lunch hour was not paid) in the last review.
13. The hourly rate is reviewed every two years, the adjustment lags behind the market rate due to inflation in between the review period. Civil society groups and labour unions have been urging the government to review the SMW annually to catch up with inflation.

Recommendations

14. The SMW should be reviewed once per year, so that the adjusted hourly rate can catch up with inflation.
15. In addition, the hourly rate of SMW should also be reviewed in the way that the level should enable the grassroots households to meet their basic needs through their work.

ARTICLE 9: RIGHT TO SOCIAL SECURITY, INCLUDING SOCIAL INSURANCE

Disability Allowance

Situation

16. As reflected by a report of the Office of The Ombudsman in Oct 2009, work injury compensation was referred to for working out the eligibility criteria of Disability Allowance (DA) in 1973. Yet, the allowance should not link to employment. Many self-help groups and NGOs have urged the government for long to review the criteria of the allowance. The definition of “severely disabled” is not clear and should not relate to the earning capacity. Besides, the criteria for DA are too strict, and the types of disability specified are limited.
17. At the same time, DA recipients would not be able to get Old Age Allowance (OAA), and vice versa. Self help groups and NGOs opine that the nature of DA and OAA is different and the aged disabled persons should be allowed to get both allowances.

Recommendation

18. NGOs and self help groups urge for a review on DA, that DA should be used to cover additional expenses arising from disability (e.g. purchasing rehabilitation equipment, medical expenses, and transportation) and for assisting the disabled person’s social participation and social integration.
19. The eligibility criteria for DA should concentrate on the applicant’s functional level, medical and the needs for social participation, and hence the linkage with the applicants’ earning capacity should be abolished.
20. In assessing one’s application, other than doctor’s assessment, social worker should also participate in providing advice on applicant’s needs and living

difficulty. Appeal mechanism on the application and on the amount of benefit should also be set up.

Insufficient retirement protection

Situation

21. Hong Kong is facing serious ageing population issue. The proportion of elderly people in Hong Kong will increase from about 10% in 2011 to 30% of the total population in 2041. HKCSS found that the elderly group (aged 65 or above) had the highest poverty rate (32.6%) in 2012.
22. CSSA has to be applied on family-basis, some elderly who live with family but do not have adequate family support could not apply the CSSA on their own, and they face financial difficulty then.
23. Yet, there lacks a public pension, elderly in poverty has to undergo income and asset test before they can get governmental support (the CSSA). Even though the government has increased the Old Age Living Allowance (OALA) (which was set up in 2013, apart from CSSA, it needs asset test, and financed wholly by the government) to HK\$2,285 each month, the amount is still not sufficient to meet the basic needs of an elderly.
24. There is the Mandatory Provident Fund (MPF), an occupational and mandatory retirement scheme implemented in 2000. There were several problems identified with the MPF system:
 - (a) MPF cannot protect unpaid homemakers, unemployed people, people with low income for acquiring sufficient amount for retirement;
 - (b) the MPF administration cost is high (1.74%¹ per year in 2012, on average);
 - (c) individuals have to face investment risk and market fluctuation throughout the process (MPF annual return ranged from -25.9% to 30.1% in 10 years, 2011²);
 - (d) with higher life expectancy, retirees have to face longevity risk as they take the lump sum of MPF upon retirement;
 - (e) the existing practice of allowing MPF to offset long service payment and severance payment has much reduced the ability of MPF to protect the grassroots labour when they are sacked.

¹ Mandatory Provident Fund Authority (2011). *A 10-Year Investment Performance Review of the MPF System*. Hong Kong: Mandatory Provident Fund Authority.

² Same as above

25. In Hong Kong, the issue of universal pension has been discussed for more than a decade, however little progress is seen. In 2013, the government has kicked off a research on collecting public opinion, and making projections over the pension proposals advocated by different parties. The government would further discuss the recommendations in the Commission on Poverty and the Legislative Council after the completion of the report in mid-2014. HKCSS urged the government to take solid actions to materialize adequate income protection for the elderly.

Recommendations

26. It is expected that the consultation and implementation of any feasible and community accepted proposal would take some time. As there is a serious problem of elderly poverty, the government should hasten the consultation and implementation of improvement in old age income protection. Many civil groups urged the government to establish a universal pension to protect all elderly in Hong Kong, so that they can maintain basic living with regular income. Some important factors, such as adequacy of the sum, principle of benefit for all, and sustainability of the scheme should be considered for the implementation of the scheme.
27. Before the implementation of universal pension, it is recommended that elderly should be allowed to apply for CSSA on individual basis.
28. The government should make reference from overseas experience and quicken to reform the MPF system. It is recommended to reform the system by:
- (a) set up public trustee to provide default option;
 - (b) simplify the administrative process, centralize some of the administrative work;
 - (c) set up public annuity scheme to ensure retirees have stable and regular income;
 - (d) to implement a universal pension system to ensure that every elderly is provided with a basic and adequate pension;
 - (e) abolish the practice of MPF offsetting the long service payment and severance payment so as to increase protection of the low income people.

ARTICLE 11: RIGHT TO ADEQUATE FOOD, CLOTHING AND HOUSING, AND TO THE CONTINUOUS IMPROVEMENT OF LIVING CONDITIONS

Widened income inequality/ poverty

Situation

29. There has been a widening income inequality in Hong Kong. The Gini Coefficient in Hong Kong has been worsened since 1976. Over the past ten years, it had been worsened from 0.525 in 2001 to 0.537 in 2011. The inflation problem is also serious in Hong Kong, it has further deteriorated grassroots' purchasing power and living standard.

30. The government has re-established the Commission on Poverty (CoP) in November 2012 for poverty alleviation (the previous one was from 2005 to 2007). The CoP had published the official poverty line in September 2013, which adopted 50% median household income of respective household size. With the establishment of official poverty line, the community can have official statistics for reference in poverty alleviation work. However, the government is still reluctant to set targets for poverty alleviation. In 2014, the government announced to implement the Low Income Working Family Allowance (LIWFA) for providing assistance to working poor households and their children.

Recommendations

31. The government is urged to set clear targets for poverty alleviation with short-time, mid-term, and long-term goals. With a set of goals, the government, together with the community, can work out poverty alleviation measures to reduce poverty.

32. Apart from income approach, the government should also include other dimensions for analyzing poverty in Hong Kong. For example, understand the deprivation situation of the population. This will enrich the understanding of poverty situation in Hong Kong and enable the policy makers to work out effective policies. While the government has introduced the LIWFA to tackle the working poor problem, the issue of elderly poverty has yet to be addressed.

Inadequacy of CSSA Scheme

Situation

33. The rate of Comprehensive Social Security Assistance (CSSA) was worked out in 1996, it was adjusted annually from the Social Security Assistance Index of Price (SSAIP). The living pattern of grassroots has changed significantly since

then, yet there is no review on the items of goods and services. For example, additional cost incurred by children's learning needs has been common to grassroots families. Using SSAIP for adjustment alone cannot reflect these new costs which have become the basic needs of family as it just reflects the "trends" of expenditure with annual adjustment in price.

34. In the research report on Deprivation and Social Exclusion in Hong Kong completed by HKCSS in Nov 2012, it was found that CSSA families have the highest deprivation rate (56.6%). It was also found that the basket of goods and services covered in the CSSA cannot reflect current basic needs of the grassroots.
35. On the other hand, the government provides rent allowance (RA) to CSSA recipients. Since some of them are not living in public housing, they have to rent private housing which charged high rents. According to the statistics provided by the Social Welfare Department, in 2012, among the 35,888 CSSA cases living in private housing with RA, 57% got RA below their actual rent. And 28% (10,048 cases) of the cases needed to pay HK\$500 or more above RA. It is far below the standard recommended by the government in the 1996 Review³ that the actual rent paid by 90% of the CSSA recipients living in private housing should be referred to for setting the maximum amount of RA.

Recommendations

36. The objective of CSSA is to provide a safety net to individuals and families that have financial needs. In this regard, the government should conduct an overall review on the CSSA to update the findings of the study conducted in 1996 and reflect the realistic situation of basic needs nowadays. The review should also cover the adjustment mechanism. The CSSA standard rate could be adjusted accordingly. The government should establish a working group which composes experts, government officials and representatives from related parties to conduct the said review.
37. The current mechanism of RA cannot reflect the true burden faced by the CSSA recipients living in private housing. The government should consider raising the allowance to help the needy ones. In long run, the government should refer to the actual rental expenditure of CSSA households for reviewing the rental allowance - the recommendation made in the review in 1996 should be referred to, that is, the rent paid by 90% of the CSSA recipients living in private housing should be

³ Social Welfare Department (1996). *Report on "Review of Comprehensive Social Security Assistance (CSSA) Scheme"*. Hong Kong: Social Welfare Department (Mar 1996).

referred for setting the maximum amount of RA.

Housing issues in Hong Kong

Situation

38. According to the Government, there are still about 74,900 inadequately housed household, living in units made up of temporary structures (such as cage-home, cubicle and roof-top), non-residential buildings, or the ‘sub-divided units’ (households sharing the same unit with other households). Different studies revealed that the tenants are undergoing safety, building structure and hygiene risks in their daily lives. Worse still, since the government removed the rental market regulation in 2004, the tenants are suffered from unreasonable high rent with limited bargaining power.
39. Another root course of the above situation is the inadequate supply of Public Rental Housing (PRH) in the past decade. Although the Government provides PRH to the low-income residences to protect their basic housing right, the provision of the PRH cannot catch up with the accelerating number of applications. As of January 2014, there were over 240,000 cases accumulated in the queue waiting for the allocation of Public Rental Housing.
40. Moreover, as the Housing Department imposed a rule of 7 years residence as a criterion of the allocation of public housing, the applications of the new arrival families are as a result not processed until half of their family members meet the criteria.

Recommendations

41. The Government should take proactive action to reinforce the protections of the tenants, especially the low-income families who are living in the private housing. Re-introduction of the rental market regulation is one of the measures that can be considered.
42. In the long run, the Government should take positive measures to speed up the supply of public rental housing. At the same time, she should ensure land is allocated in a fair and just manner and that the public rental housing residents are not geographically and socially excluded from the urban area.
43. The Government should review the 7 years residence requirement for applying for public rental housing.

ARTICLE 13 AND ARTICLE 14: RIGHT TO EDUCATION

Ethnic Minorities' Education

Situation

44. The government fails to support and mobilize the schools to provide a favorable Chinese learning environment for Non-Chinese Speaking (NCS) students. Lots of NCS students are schooling in designated schools with inadequate support for both NCS students and schools in Chinese learning and teaching. Due to the absence of Chinese learning and speaking environment in designated schools, many NCS students are not able to admit to the mainstream schools in local education system, that further discourage them to integrate into the community.
45. The government has announced to adopt a new Chinese as a Second Language (CSL) Framework for NCS students to be implemented in 2014/15 school year. The new CSL Framework is in the Drafting Stage. However, without comprehensive policy and sufficient allocation of resources for NCS students and schools, the improvement in facilitating Chinese learning for NCS students would be limited.

Recommendations

46. We urge the government to set up a CSL centre, or assign a designated team to work out, implement, monitor and review the new CSL Framework. The centre or the designated team should provide the CSL curriculum, teaching material and teaching method, teacher's training, parent education and support, set up assessment tool and allocate resources for kindergartens and schools in improving and facilitating Chinese learning environment for NCS students.
47. The CSL Framework should be well planned with teaching materials, teacher's training, assessment tools and qualification framework. It should include a recognition system of standard of Chinese language competence in individual aspect (listening, speaking, reading and writing). The Framework should include outcome indicators and a regular review system so as to monitor the effectiveness of the Framework.
48. The government should promote an integrated and friendly learning environment among mainstream schools to facilitate NCS students to study and better adapt in the local education system, with adequate support and resources allocation.

49. The government should improve the information accessibility and provide essential support to the parents of NCS students, such as the channels to obtain education information, assistance to the parents to understand the local education system as well as various resources and supporting channels to the NCS students.

Human Rights Education

Situation

50. Since the Human Rights Education Working Group established in 2005 under Committee on the Promotion of Civic Education (CPCE) was dismantled in 2007, there was no institution responsible for setting out strategies and plans to promote human rights in Hong Kong. Constitutional and Mainland Affairs Bureau (CMAB), Education Bureau and Labour and Welfare Bureau are responsible for promoting human rights in schools and in the community.

Recommendations

51. The government should allocate more resources with planning and strategies to enhance promotion of human rights.
52. The government should organize seminars or activities related to relevant conventions or relevant social issues regularly.
53. The government should enhance the human rights promotion among professional groups and the public, especially strengthening the awareness and discussion on social issues related conventions and human rights among social workers, and encouraging them to adopt human right initiatives in social work.

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