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HONG KONG UNISON

Hong Kong Unison

## Submission to the Committee on the Elimination of Racial Discrimination

In relation to the Fourteenth to Seventeenth Reports of the People's Republic of China, Hong Kong Special Administrative Region

May 2018

Hong Kong Unison ('Unison') was established in 2001 and registered as a charitable organisation in 2005. We are a local non-governmental organization that supports ethnic minority residents in Hong Kong. We are committed to eliminating all forms of racial discrimination in Hong Kong. We are concerned with the flaws of the Race Discrimination Ordinance ('RDO') enacted in 2009 and the lack of equitable opportunities in education for ethnic minority children. Unison has been following up closely with concerned stakeholders including academics, school teachers, ethnic minority parents and students on the amendment of the RDO, the integration of ethnic minority students in mainstream schools, and the teaching and learning of Chinese for ethnic minority children. We urge the United Nations ('UN') to examine the situation and provide appropriate recommendations to rectify the human rights violations towards ethnic minorities of Hong Kong.

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## **Preamble**

The Hong Kong SAR Government (“the Government”) has made public the third report (“the Report”) of the Hong Kong Special Administrative Region (HKSAR) under the ICERD as part of the Fourteenth to Seventeenth Reports of the People’s Republic of China under the Convention. Since its last report in 2008, although the Government has made some progress in a few issues related to ethnic minorities, the big picture of public policies disadvantaging ethnic minorities remains unchanged. In its eighth year of implementation, the same flaws still exist within the Race Discrimination Ordinance (RDO), and new education policies remain a skeleton with no substantive change from before. We maintain that the Government is rich in resources but lack political will and commitment to this human rights cause.

## **Article 1: Definition of racial discrimination**

1.1 **The Race Discrimination Ordinance does not cover characteristics such as nationality, citizenship and residency or related status.** Ethnic minorities experience proxy discrimination when opening bank accounts where they are asked their nationality and are then refused services or experience longer wait time. Although in 2009, CERD made a **specific recommendation** to the Government to include in the RDO “immigration status and nationality” as prohibited characteristics of discrimination, no amendment has been made to the RDO as yet (ICERD para 27, 2009)<sup>1</sup>. The Equal Opportunities Commission (EOC) completed the Discrimination Law Review (DLR) consultation and submitted their recommendations to the Government in 2016. In March 2017, the Constitutional and Mainland Affairs Bureau (CMAB) responded to the submissions and prioritised 9 recommendations, seven of which concerned the RDO. However all of them were low-priorities recommendations concerning only the private sector. In a Legislative Council dedicated meeting discussing the amendment of the RDO in Nov 2017, the Government refused to provide a timetable on amending the discrimination laws based on the other 60 EOC recommendations, a dozen of which concerning key flaws in the RDO. **The government should amend the RDO to include nationality as a protected characteristic.**

## **Article 2: Policy of eliminating racial discrimination**

2.1 **The Race Discrimination Ordinance, being the only one that exempts government powers and functions, is the weakest among the four anti-discrimination ordinances in Hong Kong,** despite recommendations made in the 2009 CERD Concluding

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<sup>1</sup> The Committee recommends that indirect discrimination with regard to language, immigration status and nationality be included among the prohibited grounds of discrimination in the Race Discrimination Ordinance. In this regard it recalls its General Recommendation No. 30.



Observations (ICERD para 28, 2009)<sup>2</sup>. The exemptions in the RDO render ethnic minorities vulnerable when facing government powers and functions such as policing. Although the EOC completed the Discrimination Law Review consultation and submitted recommendations to the Government, Government powers and functions was not one of the seven amendment areas being considered by the CMAB, and no timetable has been given on amending this item. **The government should amend the RDO so that it covers government powers and functions.**

- 2.2 **Police powers are not bound by section 3 of the RDO nor are they always considered “services” under section 27.** The court judgement on Singh Arjun v. the Secretary for Justice handed down in 2016 refutes para 2.8 of the Report. Mr. Arjun Singh filed a case against the police for discriminating him on the grounds of race by failing to provide adequate police services. Arjun is a HK permanent resident of Indian ethnicity and was 11 years-old at the time of the incident in 2010. He had an altercation with a lady of Chinese ethnicity on the escalator in a train station; they both called the police but Arjun was arrested and detained in the police station for hours while the lady of Chinese ethnicity was free to go. The court holds that the acts of the police in investigation and arrest do not amount to ‘services’ for the purpose of the RDO and policing is not bound by the RDO. This shows how vulnerable the current RDO can render ethnic minorities when facing the police and the rest of the Government. Therefore, section 3 of the RDO does not bind Government powers and functions; and section 27 of the RDO concerning provision of services is not always applicable in terms of Government acts.
- 2.3 **The Hong Kong Bill of Rights Ordinance (HKBORO) and Basic Law are not effective in binding the government to non-discrimination.** The Government has used the HKBORO and Basic Law time and again to justify the fact that the RDO does not need to be amended to explicitly bind Government powers and functions. However, if discriminated by the Government, the victim’s only resort is to take the Government to court, which is very costly making it an unlikely event. With virtually no legal and financial repercussions, the government is not effectively regulated by the HKBORO and the Basic Law when it comes to racial discrimination.
- 2.4 **The “Administrative Guidelines on Promotion of Racial Equality” is poorly implemented.** The Government has issued the Administrative Guidelines aiming to ensure minorities of different races have equal access to public services. Relevant government bureaux and departments covered by the Guidelines should take measures to promote racial equality and eliminate discrimination in the formulation and implementation of policies. Contrary to that stated in para 2.11 and 2.12 of the Report, many bureaux and departments are not aware of the existence of the Administrative Guidelines as seen in incidences in which frontline staff at hospitals or birth registrar is

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<sup>2</sup> The Committee recommends that all Government functions and powers be brought within the scope of the Race Discrimination Ordinance. It also recommends the adoption of an equality plan with a view to ensuring the effective implementation of the law and that the Equal Opportunities Commission be strengthened.



unaware that they have the obligation to arrange interpretation service. Implementation of the Guidelines is on voluntary basis and monitoring is weak. **The Government should review the implementation of the Administrative Guidelines, and the scope of application of the Guidelines should be extended to all departments and bureaux, made statutory, and strictly enforced with extra resources and mechanism.**

- 2.5 Regarding para 2.14 and 2.15 of the Report on the work of the Race Relations Unit (RRU), apart from conducting some talks, giving out funding and publicizing existing Home Affairs Department programmes, the RRU is a passive entity that has no real interest in hearing the voices of the ethnic minority community. The Ethnic Minority Forum run by the RRU is the only channel under the HAD where ethnic minorities and NGOs can voice their concerns directly to Government officials. However, in recent years the Forum has gone from taking place two to three times a year to meeting once a year and even not at all.
- 2.6 **A racial equality plan is absent to ensure effective implementation of the RDO.** Given the weak RDO, a racial equality mandate according to which the Government has a statutory duty to eliminate racial discrimination and to promote racial equality and harmony even within the Government is indispensable. Such a system would not open any flood gate for litigation, a worry cited by the Government to deny making the RDO applicable to government functions. The statutory equality plan should list Government functions and policies, including policies proposals; assessing, consulting and monitoring policy for any adverse impact on racial equality; mandating a plan of action to address racial problems identified, with the proper deployment of resources; and including periodic reviews to update and improve the equality plan.

### **Article 3: No racial segregation or apartheid**

- 3.1 ***De facto* segregation still exists in former ‘designated schools’.** In Hong Kong, there are public schools known as former “designated schools” where over 80 or 90% of the student body is ethnic minority; this constitutes *de facto* segregation. These schools are not conducive to students' Chinese learning or social integration. Ethnic minority students graduating from these schools often have lower level of Chinese abilities; this affects their social integration and career prospects. Therefore, the government should desegregate schools with disproportionate percentage of ethnic minority students. We urge the Government to **acknowledge detriment of a segregated environment and take immediate and effective steps to eliminate the *de facto* racial segregation in the public education system.** We also urge the Government to offer adequate and professional training for all teachers to raise their cultural sensitivity to better help students integrate.



## **Article 5(e) Discrimination in education and training**

### **Chinese language curriculum**

- 5.1 **Chinese as a Second Language Curriculum is still absent**, despite CERD’s concluding observation in 2009 (para 31, 2009).<sup>3</sup> The current mainstream Chinese language curriculum assumes all students’ mother tongue to be Chinese and the learning of other subjects also depends on a student’s Chinese ability. The majority of ethnic minorities do not speak Chinese as a first language, and most ethnic minorities graduate from 12 year of education with Chinese abilities comparable to only mainstream primary two level. As a result, they enjoy limited further education and employment opportunities.
- 5.2 Although the Government implemented the “Chinese Language Curriculum Second Language Learning Framework” (the Learning Framework) starting from September 2014, the Learning Framework is developed from a Chinese as mother tongue perspective. There are no policy goals, outcome indicators, detailed implementation plan and timetable, or monitoring mechanism. Limited guidance has been provided to schools on pedagogic principles and teachers are not required to be trained professionally before teaching Chinese as a Second Language. The Framework also lacks accountability to parents and students. We urge the Government to **formulate a comprehensive and adequate “Chinese as a second language” policy** with a concrete policy goal, an implementation plan, output indicators, and a transparent monitoring and evaluation mechanism as soon as possible.
- 5.3 **Alternative Chinese curriculum should be a short-term measure and cannot replace an effective Chinese as Second Language curriculum.** Due to the lack of an effective Chinese curriculum for ethnic minority students, many are arranged to study for and take the GCSE (Chinese) examination that is equivalent to local mainstream primary two level. Although students may use their GCSE (Chinese) results in place of the mainstream Hong Kong Diploma of Secondary Education (DSE) Chinese exam results to apply for tertiary programmes, their actual Chinese abilities limit their education and career opportunities. Allowing students to sit for GCSE (and GCE<sup>4</sup>) Chinese exams and use the results to apply for universities should be a short-term measure or for new immigrant students only. Eventually, all ethnic minority students should be able to sit for the Diploma for Secondary Education Exam given an effective CSL policy.
- 5.4 **The quality of the Government’s new initiative Applied Learning Chinese (for non-Chinese speaking students) is dubious.** In 2014, the Government announced two new

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<sup>3</sup> The Committee recommends that a policy on Chinese teaching for non-Chinese speaking students from immigrant background be developed in consultation with teachers as well as the communities concerned. Efforts to improve the quality of Chinese language education for immigrant children should be intensified.

<sup>4</sup> GCE (Chinese) Advanced Subsidiary level is roughly equivalent to mainstream primary six level and GCE (Chinese) Advanced level is equivalent to secondary two level. While these two exams are more advanced than the GCSE (Chinese) exam, schools that teach to the test may overlook students’ actual abilities and ambition, and only allow them to sit for GCE AS or A level exams.



2-year applied Chinese courses with focus on Chinese used in service and hospitality industries for secondary-four students. Although results of the courses will be accepted by some tertiary education institutes as alternatives for DSE (Chinese), this move steers ethnic minority students towards the service industry and does not equip them with inclusive Chinese capability. Frontline Chinese teachers have criticised the quality of the programme and the instructors. These courses should only be short-term measures; the Government should **work towards a long-term strategy on Chinese learning for ethnic minorities.**

### **Securing school places and promotion of early integration**

- 5.5 Ethnic minority parents cannot make informed decisions when choosing a school for their children. Currently, when applying for primary or secondary schools, ethnic minority parents who wished to find out about language support provided by different schools have to call the schools one by one, creating a huge burden on parents and school staff alike. Some schools may show unwelcoming attitudes and may even advise parents to apply to the former “designated schools”. **We urge the Government to require all public schools to include language support and measures available in the School Profiles published by the Education Bureau.**
- 5.6 **Parents face discrimination in kindergarten admission procedures.** Kindergarten is often where ethnic minority children are first exposed to the Chinese language and can have far-reaching impact on their future Chinese learning. When applying for kindergarten, ethnic minority parents and students are often treated less favorably than their Chinese peers. Kindertartens may be unable/unwilling to provide the application form in English, dissuade ethnic minority applicants from applying, or require ethnic minority children to speak Cantonese, which is usually not their mother tongue, in admission interviews. Therefore, **we call on the government to monitor the fairness of kindergarten admission process.** .

### **Vocational Chinese and vocational training**

- 5.7 **Vocational training opportunities are limited for ethnic minorities who are not proficient in Chinese.** Many ethnic minorities are employed in low-paying jobs and living at or below the poverty line. Currently, educational and vocational training bodies do not have to make different arrangements in the medium of instruction for persons of any racial group. Some members of ethnic minorities have been unable to receive vocational training or apply to a range of post-secondary courses because institutions do not offer courses in English, which is one of the two official languages in Hong Kong that is currently more accessible to ethnic minorities. According to our research on post-secondary education programmes in 2015, 71% (132 out of the 186 programmes that provided adequate information) are not suitable for students who do not speak or write



Chinese.<sup>5</sup> This violates rights to education and seriously hampers minorities' chance of further education, as well as limits their economic opportunity. **Although the official languages in HK are Chinese and English, the RDO expressly exempts accommodating the medium of instruction in education and vocational training for persons of any racial groups. This blanket exemption should be removed.**

### Students with special education needs

5.8 **Ethnic minority students with special education needs face challenges and discriminations in mainstream schools.** There is a lack of English or mother-tongue special education needs (SEN) assessments for ethnic minority children, which resulted in mis-diagnoses and under-diagnoses. Once a child is diagnosed, parents may not be able to place their child in a school with proper support as there is a severe shortage of English school places and resources for ethnic minority SEN students. Being placed in a Chinese learning environment can further delay their ability to communicate and compromise their development, resulting in poor educational outcomes. We urge the government to make **English or mother-tongue SEN assessments more accessible and English school places more available** for ethnic minority SEN students so they do not miss the critical developmental window of opportunity to learn in an appropriate environment.

### Article 4: Propaganda or organisations which are based on racial discrimination or segregation

4.1 Since Jan 2016, it was reported that there was a surge in crime committed by “South Asians”<sup>6</sup> despite the absence of official data to substantiate the claim. One newspaper in particular is responsible for generating most of the reports on supposed “South Asian crime”; reports on crimes committed by ethnic minorities are sensationalised with the suspects' race highlighted in the headings, which may reinforce public stereotypes and generalisations. Yet this news outlet was thanked by name by the then Chief Executive and a few legislators for their extensive work on this issue<sup>7</sup>. Around the same period, the social media platforms of civil societies serving local ethnic minorities including Hong Kong Unison became flooded by xenophobic comments and in some instances, even calls for violence against South Asians. However seeking justice against racial vilification is challenging and time consuming (see para. 6.1 on the Equal Opportunities Committee).

4.2 The social media pages of NGOs fighting for the rights of ethnic minorities in Hong Kong have become persistent targets of hate speeches and defamatory comments. The

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<sup>5</sup> Hong Kong Unison, “Research on Post-Secondary Education Opportunities for local Non-Chinese Speaking students in Hong Kong”.

<sup>6</sup> Suspects with dark skin are labelled as “South Asians” even though they are not South Asians. One example of this is that a “South Asian” was wanted for having stabbed a convenience store worker, but the suspect turned out to be a Canadian passport holder of Vietnamese descent.

<sup>7</sup> <https://hk.news.appledaily.com/local/daily/article/20160114/19451032>



derogatory comments contain racism, xenophobia, foul language, harassment, allusion to violence, and personal attacks, against particular or general racial groups as well as against the organization supporting these populations. South Asians are lumped together as one racial group and called “dogs”, “parasites”, “thieves”, etc. Online Facebook hate groups have also been established to harass individual or group Facebook pages. The openness of such level of racial hatred is unprecedented in Hong Kong. These comments greatly limit the freedom of speech and participation online by ethnic minorities, as they are intimidated by the open hostility and are worried about being ostracised online even if they are only trying to leave constructive comments. Despite repeated requests to social media platforms like Facebook to take action against racist comments, there have not been any positive replies. The Equal Opportunities Commission is slow at taking action against these incidences of hate speech; proactive monitoring of the situation and public education measures are lacking.

- 4.3 The Broadcasting Ordinance is extremely loose on what kind of content counts as “inciting public hatred” against a certain race, and the ground of a programme being prohibited from broadcasting is that it would “result in a general breakdown in law and order” or “gravely damage public health or morals.” Thus, the Ordinance is unable to monitor less severe violations that are also damaging to public perception of ethnic minorities. **We urge the EOC and HK government to conduct more public education programme, and issue a detailed guideline to broadcasting licensees.**

### **Article 5(a): Equal treatment before tribunals and organs administering justice**

#### **Decisions made under the Immigration Ordinance**

- 5.9 Despite being the second or third generation in Hong Kong, some ethnic minorities face immense difficulties when applying to be naturalised as Chinese nationals. The current system is opaque, requirements seemed to vary from one case to another and applicants are not notified of the reasons for refusal, making it a frustrating process for them. We urge the Immigration Department to treat applications for naturalisation from long-time and locally born minority residents in Hong Kong with compassion.

### **Article 5(b): Security of person**

#### **Power abuse and lack of cultural sensitivity of the Police Force**

- 5.10 Over the past decade, civil societies have received many complaints from members of ethnic minorities of various socio-economic backgrounds that they have been racially profiled, discriminated against, harassed or insulted by the police. In 2009, a Hong Kong-born Nepalese man, Limbu Dil Bahadur was shot dead by a police constable who was responding alone to call-out. Among other criticisms of the fatal shooting, the police officer made his warnings towards Limbu in Cantonese, without regard to whether Limbu



understood the warning<sup>8</sup>. Sadly, the Jury of the Court returned a verdict of lawful killing, and no recommendations have been made to prevent similar incidents from recurring or improve police function when dealing with linguistic minorities. In the abovementioned case of Mr. Arjun Singh under article 1, Arjun only spoke English but the Police gave him the caution in Cantonese before arresting him and arranged a Punjabi interpreter to take his statement. The Police Force lacks internal guidelines and sanction against discriminatory practices leaving ethnic minorities vulnerable to police power abuse. There are no provisions on non-discrimination nor cultural sensitivity in the Police Force's Operation Manual and Standing Order. We urge the HKSAR Police Force to **include cultural sensitivity training as well as mandatory human rights training** in the Police Academy and on the job training. The Police Force should be **required to collect race or ethnicity data on ID checks, arrest and crime rate so as to illustrate whether police officers are prone to racial profiling**.

### **Article 5(c): Political rights**

#### **Standing for elections**

5.11 **Political participation is limited for ethnic minorities.** Although ethnic minorities who are permanent residents can vote in elections and run for district councils, their chances for running in elections for the Legislative Council ("LegCo") are limited. Only Chinese nationals who are permanent residents of Hong Kong with no right of abode in a foreign country can run for LegCo elections except for the candidature in the 12 functional constituencies, which is open to Hong Kong permanent residents who are not Chinese nationals or who do not have the right of abode in a foreign country. Based on 2011 Census data on their occupations, ethnic minorities have a very low representation in those 12 functional constituencies. Difficulties to naturalise for ethnic minorities is one of the reasons for such low representation.

#### **Voting in elections**

5.12 Hong Kong saw District Councils Election in 2015 and Legislative Council Election in 2016, yet ethnic minorities' participation in these elections were very limited as few candidates were familiar with ethnic minority issues and the great majority of the candidates only provided promotional materials in Chinese. These factors lead to low motivation to vote in the ethnic minority community.

#### **Employment in the civil service**

5.13 Chief Executive promised in the 2017 Policy Address that the Civil Service Bureau would co-ordinate a comprehensive review on the entry requirements relating to Chinese proficiency for all grades of the civil service, with a view to increasing government job

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<sup>8</sup> In addition, despite the fact that Mr. Limbu's family cannot understand Cantonese, the inquest of Mr. Limbu was conducted in Cantonese.



opportunities for ethnic minorities. However, the Government does not collect data on race or ethnicity of civil servants making it impossible to evaluate the effectiveness of the measure. Also, this remedial measure cannot rectify the phenomenon of local ethnic minorities having low Chinese abilities due to systemic failures.

### **Article 5(d) Civil rights**

5.14 **Civil participation is undermined by the lack of information in English.** Language is a major obstacle to ethnic minority's participation in the civil and political arena. Although the official languages of Hong Kong are Chinese and English, much government information is only accessible and available in Chinese. We urge the Government to act on its legal and international obligation to ensure civil and political participation of ethnic minorities by requiring all its departments to provide information in Chinese and English and increase the accessibility of English version of documents.

### **Article 5(e): economic, social and cultural rights**

#### **Employment Rights**

5.15 **Labour Department (LD) is unable to provide suitable service to ethnic minorities.** Language barrier remain the major difficulty for ethnic minority job seekers. The LD services are not fully accessible to ethnic minority job seekers. Many LD job postings do not cater to ethnic minorities who are not fluent in Chinese. According to Diocesan Pastoral Centre for Workers' survey in 2015, over 65% of respondents did not find its services useful and 85% did not receive employment via the assistance of LD<sup>9</sup>. The Employment Service Ambassadors (ESA) programme, launched by the LD for ethnic minority youths, falls short of its objective of helping ethnic minority job seekers find employment. We urge the Government to **provide incentives for employers to hire minority job-seekers**. These strategies can make the most of minority job-seekers' talents while encouraging them to integrate into Hong Kong by learning Cantonese.

#### **Right to housing**

5.16 **Ethnic minorities often face direct and indirect discrimination when seeking accomodations.** The Housing Authority fails to cater to ethnic minorities' needs when providing services. Most flats in the public housing scheme are targeted for smaller families, and public housing is only allocated if at least 50% of household members are permanent residents. Because of their larger family size and the resident status of household members, ethnic minority families are generally subjected to indirect discrimination by the public housing scheme. Often, ethnic minorities have no choice but

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<sup>9</sup> Diocesan Pastoral Centre for Workers (Aug, 2015). "Survey on the Government's Support towards Employment of South Asian Ethnic Minorities".



to seek private housing. Time and again, landlords and real estate agents blatantly refuse renting to ethnic minorities because of their race and color, thus directly discriminating against them. Many ended up living in poor housing conditions paying exorbitant rent.

#### **Article 5(f): right of access to services**

##### **5.17 Government-funded interpretation services vary in quality and are under-utilised.**

Language barrier is one of the main obstacles for ethnic minorities to access services and seek help. However, the existing interpreting services funded by the Home Affairs Department are under-promoted to government departments and ethnic minorities. Moreover, the quality and professionalism of interpretation services available vary, which affect ethnic minorities' access to legal protection, medical services, and housing and welfare services. There is currently no comprehensive assessment nor licensing body for interpretation service, and ineffective feedback mechanism in place to inspect the qualifications and conduct of interpreters as well as control the quality of interpretation. **The Government should ensure relevant bureaux, departments and ethnic minorities know about the interpretation service and strengthen the monitoring and complaint handling mechanism of the interpretation service and its transparency.**

**5.18 Ethnic minorities are treated less favourably when accessing both private and public services.** In September 2016, the EOC published a report<sup>10</sup> on this widely recognized phenomenon. Despite facing unfair treatments, none of the respondents in the study would consider filing a complaint to government organizations, worried that their race would be labelled as trouble-makers. Although the RDO has been in place for eight years, the ethnic minority communities are still not aware of the law and the protection it grants to them, and they have little confidence in the effectiveness of the law and EOC's complaint mechanism. Though the EOC reported that it has conducted numerous talks to the public over the years, there is no impact assessment and the training model is grossly outdated. An example of which is given below.

**5.19** Hong Kong Unison has attended talks given by the EOC to estate agents and banks, where the EOC explains the gaps in the RDO in a way that the attendants pick up on how they may legally discriminate against a client. Instead of telling a client that they are not served because of their race, service providers now know that they can refuse a client service on the ground of their nationality, a characteristic not protected by the RDO, and the act will not be unlawful.

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<sup>10</sup> This project is commissioned by Equal Opportunities Commission to Mercado Solutions Associates Ltd. "Study on Discrimination against Ethnic Minorities in the Provision of Goods, Services and Facilities, and Disposal and Management of Premises." September.



## **Article 6: Provision of effective protection and remedies against any acts of racial discrimination**

### **Equal Opportunities Commission**

- 6.1 **The Equal Opportunities Commission (EOC) cannot uphold racial justice**, despite the 2009 CERD concluding observation (ICERD para 28, 2009)<sup>11</sup>. The EOC does not comply with the standards set in the Paris Principle – it is not independent from the Government, and its Chairperson and board members are appointed by the Chief Executive. Its complaint process is long and cumbersome (more in para 7.2); in the end very few victims are provided legal assistance (more in 6.2). Despite having conducted numerous visits and talks, the Commission is ineffective in investigating and eradicating institutionalized racism in government, public or private bodies such as banks, schools, etc. **The Government should establish an authentic Human Rights Commission; the EOC should conduct comprehensive review on all areas of its work.**
- 6.2 **The Legal Service Division of the EOC do not meet with or provide legal advice to victims who have not been granted legal assistance.** There are currently 6 lawyers under the Legal Service Division, incurring a cost of over 8 million Hong Kong dollars every year. Yet these lawyers provided unreasonably limited legal assistance: on average, they only handle about 30 applications every year and half of them are rejected, which means barely a dozen cases received legal assistance, and among them only a few went to the court. In short, each lawyer only needs to handle one case every two months, which reflects the level of mismanagement and passivity that is pervasive in the Division.

## **Article 7: Measures to combat prejudice**

### **Equal Opportunities Commission**

- 7.1 The Policy, Research and Training Division has only been focusing on conducting fragmented research projects, and there has been limited follow-up to the findings. The EOC limits itself to making policy suggestions without actively investigating and monitoring whether government departments and private bodies, especially in areas where discrimination is rampant.
- 7.2 EOC complaint procedure is long and cumbersome. Hong Kong Unison has lodged complaints and acted as the representative for discrimination victims with the EOC on cases related to employment and accesses to bank services; the correspondence between the complainant and the respondent lasted anywhere from six months to up to two years. Victims are often fighting against an employer, an institution or a corporate, who often have legal advisors. Throughout the process, EOC merely acts as a messenger and offers

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<sup>11</sup> The Committee recommends that all Government functions and powers be brought within the scope of the Race Discrimination Ordinance. It also recommends the adoption of an equality plan with a view to ensuring the effective implementation of the law and that the Equal Opportunities Commission be strengthened.



the victim no assistance. Without a representative, a discrimination victim is unlikely to be able to keep up with the correspondences and pursue the case til the end. Although the EOC operates on a conciliation-based model, the complaint procedure resembles a court evidence collection process, placing a huge burden on the complainant who is often looking for a practical solution and want to set right what went wrong.

- 7.3 **RDO continues to be underused.** Despite the numerous talks EOC conducted with the ethnic minority community, RDO remains grossly underused in the EOC enquiry and complaint procedures. There has only been one court case using the RDO.

#### List of abbreviations

<b>CMAB</b>	<b>Constitutional and Mainland Affairs Bureau</b>
<b>EOC</b>	<b>Equal Opportunities Commission</b>
<b>EDB</b>	<b>Education Bureau</b>
<b>DLR</b>	<b>Discrimination Law Review</b>
<b>HAD</b>	<b>Home Affairs Department</b>
<b>HKBORO</b>	<b>Hong Kong Bill of Rights Ordinance</b>
<b>LD</b>	<b>Labour Department</b>
<b>RDO</b>	<b>Race Discrimination Ordinance</b>
<b>RRU</b>	<b>Race Relation Unit</b>