



香港融樂會有限公司
HONG KONG UNISON LIMITED

Submission to the United Nations Secretary-General

For the 76th General Assembly on the Effective Promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

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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 of Hong Kong. We are committed to safeguarding the rights of ethnic minorities and eliminating racial discrimination in Hong Kong. We are concerned with the lack of support measures for ethnic and racial minorities during COVID-19, 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 communities on the rights of ethnic minorities of Hong Kong.

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Lack of special measures to support ethnic minorities during COVID-19 pandemic

1. During the COVID-19 pandemic, the HKSAR Government fails to provide special measures to support ethnic and linguistic minorities who are disproportionately and adversely impacted.
2. Since the outbreak of COVID-19, the Education Bureau has intermittently suspended face-to-face classes. Lessons are held online and lesson time shortened; after-school free Chinese tutorials are suspended. Support for ethnic minority children on Chinese learning came to a halt. Hong Kong Unison observes that the Chinese proficiency of many ethnic minority children has been severely impacted¹, impeding their Chinese language development and progress and hence, eventual participation in the local community.
3. The poverty rate of South Asians in Hong Kong was 25.7% in 2016 (compared to the average territory-wise figure of 19.9%) and 80% of the poor Pakistanis and Nepalese resided in working households (the overall working poverty in Hong Kong was 50.3%). Furthermore, nearly 80% of poor South Asians resided in 4 persons and above households. South Asians are often the first to be sacked during COVID-19 because of discrimination in the city and the poor Chinese proficiency (please see below para. on education); the Government has not provided distinct financial support measures to this vulnerable group.
4. During the fourth wave of COVID-19 outbreak in Hong Kong in early 2021, a discriminatory remark made by a senior government official at HKSAR Centre for Health Protection sparked off racial tensions² in the community. The racially insensitive remark promoted fear and negative stereotypes towards the already marginalized ethnic minority groups. Rapid growing number of race discrimination cases were reported after the remark, including customers refusing food delivery services by South Asians³, and suspension from work of South Asian construction workers who nonetheless were tested negative for COVID-19⁴.
5. During the fourth wave, the Government imposed strict lockdown measures and mandatory COVID-19 tests in buildings with confirmed COVID-19 cases. Some of these buildings are home to many ethnic minorities; yet, the government failed to deploy appropriate manpower on announcement, notification and interpretation of these measures, hence bringing confusion and apprehension to many ethnic minority families.

¹ <https://www.scmp.com/news/hong-kong/education/article/3121684/falling-through-cracks-hong-kongs-vulnerable-pupils-set?fbclid=IwAR1Hx2civ64cPw5QRNO8Igyf9I0maw9OPIIYb-CCxWLFoex9uPgVbsoVap8>

² <https://www.scmp.com/news/hong-kong/health-environment/article/3118122/hong-kong-fourth-wave-mandatory-covid-19-testing?fbclid=IwAR0JOWJAHJx4cKefYDRaAY6V4Zk-m1RQ4UV9zzv0VX28O5fPp9yO0rPWyso>

³ https://www.scmp.com/news/hong-kong/health-environment/article/3118914/coronavirus-hong-kong-anti-racism-watchdog-speaks?fbclid=IwAR3fsJECN5HsRRTUDLLthonzZRelG_eHsHH8QM2BACVsMyui_ZuObqDMUo

⁴ <https://www.eoc.org.hk/eoc/graphicsfolder/ShowContent.aspx?ItemID=17130>



Discrimination in education and training

Chinese language curriculum

6. Chinese as a Second Language Curriculum is still absent, despite CERD's concluding observation⁵ in 2018 (para 24a and 24c). 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 years of education with Chinese abilities comparable to only mainstream primary two level. As a result, they enjoy limited further education and employment opportunities. A comprehensive and adequate "Chinese as a second language" policy with a Chinese as a second language curriculum, an implementation plan, output indicators, and a transparent monitoring and evaluation mechanism is urgently needed.

Securing school places and promotion of early integration

7. Currently, when applying for primary schools, ethnic minority parents are often misled to choose schools from a list provided by the Education Bureau specially for non-Chinese speaking families. These schools traditionally admit ethnic minority students and are considered de facto racially segregated schools which is not conducive to integration.

Vocational training

8. Vocational training opportunities are limited for ethnic minorities who are not proficient in Chinese. Many ethnic minorities are employed in low and non-skilled jobs. Currently, educational and vocational training bodies do not have to make any arrangement in the medium of instruction for persons of any racial group. Some ethnic minorities have been unable to receive vocational training or apply to tertiary programmes 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 Unison's research on post-secondary programmes in 2015, 71% (132 out of the 186 programmes that responded to our research) are not suitable for students who do not speak or write Chinese.⁶ 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 Racial Discrimination Ordinance ("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.

⁵ *The Committee recommends that the State party: (a) Strengthen special measures to ensure equal access to, availability of and quality of primary and secondary education to all ethnic groups; (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.*

⁶ Hong Kong Unison, "Research on Post-Secondary Education Opportunities for local Non-Chinese Speaking students in Hong Kong".



Students with special education needs

9. 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 racial minority children, resulting in long waiting lines and children missing the golden opportunities to receive early intervention. There are incidences of mis-diagnoses and under-diagnoses when SEN assessments are conducted in Chinese.

Insufficient effort to promote identity of ethnic, cultural and linguistic minorities

10. Per the review of school curriculum⁷, the Education Bureau will focus on developing universal core values underpinning Chinese morals and culture. The multicultural and ethnic diversity of Hong Kong may be disregarded because of the Chinese emphasis and ethnic minority students may not have adequate opportunities to explore their identity.
11. Hong Kong Unison observes that some school textbooks are not culturally sensitive and often stereotype certain ethnicities. We urge the Government to uphold racial integration and equality in value education and to recognize the contribution of ethnic minorities to Hong Kong in school textbooks, as suggested by the CERD 2018 (para 25)⁸.

Lack of protection against racial discrimination in the performance and exercise of Government powers and functions

12. The Racial Discrimination Ordinance (“RDO”), being the only anti-discrimination law in Hong Kong which exempts Government powers and functions from its purview, is the weakest among the four anti-discrimination ordinances in Hong Kong. The exemption renders ethnic minorities vulnerable such as during policing and in correctional services.
13. In October 2016⁹, four rounds were fired by the Hong Kong Police Force after two Nepalese attackers and two other Nepalese men repeatedly ignored police warnings to stop. One of the attackers was in a critical condition after three bullets to the waist and hip, while the other suffered a gunshot wound on his arm.
14. On 20 May 2020, a man of Indian ethnicity died after the Hong Kong Police Force claimed to have used “appropriate force” to subdue him¹⁰. According to the Fire Services Department, the suspect was not breathing and did not have a pulse when paramedics arrived on the scene, contradicting the police’s statement that the suspect expressed that

⁷ <https://www.legco.gov.hk/yr20-21/english/panels/ed/papers/ed20210119cb4-365-1-e.pdf>

⁸ *With a view to ascertaining the treatment of ethnic minorities in educational curricula, the Committee requests that the State party, including Hong Kong, China, describe in its next periodic report information contained in school textbooks on the historical presence and contributions of ethnic minorities in their territories.*

⁹ <https://www.scmp.com/news/hong-kong/article/2024385/armed-police-fire-multiple-shots-attempting-break-fight-between-south>

¹⁰ <https://coconuts.co/hongkong/news/man-dies-24-hours-after-resisting-arrest-police/>



he did not feel well while being detained in the police vehicle, and was then sent to the hospital by ambulance and subsequently died the following day in the hospital.

Government policies are not exactly implemented with due regard for ethnic minorities' rights

15. The measures listed out in the “Administrative Guidelines on Promotion of Racial Equality”¹¹ by respective public authorities are at best remedial and piecemeal. Almost all the relevant public authorities mention providing interpretation services and leaflets in multiple ethnic minority languages, but shy away from acting on the other imperative outlined in the Guidelines – “adopt[ing] the good practice of considering the promotion of racial equality as an integral dimension in the formulation, implementation and review of relevant policies and measures”. Equal access to public services is just one of the guiding principles on promoting racial equality. More importantly, relevant public authorities should take steps to eliminate racial discrimination arising from policies and measures.
16. A key flaw of the Guidelines is that they rely heavily on the false assumption that the existing legal framework such as the HKBORO, Basic Law and RDO is enough to ensure compliance. The Guidelines claim that since the Basic Law and HKBORO prohibit all forms of discrimination, an act of racial discrimination by a public authority that contravenes the law may be “challenged in court”. While this may be true in principle, the heavy legal cost implied in seeking judicial review on Government’s actions using the HKBORO and/or the Basic Law deters individuals from filing a claim. The Guidelines also rely on the claim that the RDO prohibits discrimination and therefore it will be a force of deterrence against discrimination. However, the fact is Government powers and functions are not covered under the RDO. The Guidelines are effectively making no promise at all that anything must be accomplished on any authority.
17. The Guidelines being not legally binding is the main reason for its ineffectiveness. Since the Government operates under a strong compliance-based culture, statutory duty is indispensable in achieving racial equality. Implementing statutory duty will require the amending of the RDO.

¹¹https://www.cmab.gov.hk/en/issues/equal_agpre_language.htm