



**Submission on the hearing of the Report of Hong Kong under International Convention on the
Elimination of All Forms of Racial Discrimination (ICERD)**

11 December 2009

A. Foreword

1. Hong Kong Unison has submitted its paper to United Nations Committee on the Elimination of Racial Discrimination (the Committee) and was one of the local NGO delegations observed the hearing on the China's Report (including HKSAR) on the implementation of ICERD in August 2009. We are delighted to see that the Committee has covered most of our concerns in the Concluding Observations.
2. However, we are deeply regret that Stephen Lam, the Secretary for Constitutional and Mainland Affairs, refused the request of Hon Emily Lau, Legislative Counselor, who also went to Geneva to observe the hearing, to hold a meeting between the Government and NGOs for the discussion of follow up actions regarding the recommendations stated in the Concluding Observations. Mr. Lam's dispiriting reply once again reflects his arrogant attitude and the lack of commitment in matters of racial equality as well as other Human Rights issues.
3. The Unison urges the Government take the recommendations stated in the Concluding Observations seriously and stop escaping its international obligations.

**B. Coverage of Government functions and Powers in the Race Discrimination
Ordinance (Paragraph 28)**

1. During the scrutiny of the Race Discrimination Bill, the Bill committee members concerned the inconsistency between the RDB and other three equality laws in the coverage of Government functions and powers, the Government claimed that "*to expand the scope of the Bill (Race Discrimination Bill) to cover all government functions would case uncertain and potentially far-reaching adverse implications on the Government's ability to make and implement*



policies” which “could render the Government vulnerable to an influx of litigations”.¹ Such explanation reflects racial discrimination occurs within the Government and is allowed to be existed constantly.

2. The government also claims that ‘the Government is prohibited from practicing racially discriminatory acts in the exercise of its functions under the Basic Law and the Hong Kong Bill of Rights Ordinance’ and that ‘there is an extensive framework of organizations, including LegCo, EOC and the Ombudsman, which deal with complaints against Government department’.²
3. Yet, the Unison wants to point out that the Bill of Rights also prohibits Government from sex discrimination, disability discrimination and family status discrimination but there still have additional provisions to cover Government functions and powers in the SDO, DDO and FSDO respectively. This inconsistency not only reflects the Government lack of commitment in combating racial discrimination and but also creates difficulties for EOC when she implements the equality laws as well as sends a very negative message to the public that the ethnic minority residents are less deserved to be protected.
4. The Unison urges the Government to amend the RDO so as make it in line with the other three equality laws to provide adequate protections to the victims of racial discrimination.

C. The Administrative Guidelines

1. The Unison is very disappointed by the Government’s refusal of formulating a Race Equality Plan to compensate the major flaws in the RDO so as to ensure genuine racial equality in Hong Kong. The Government has draw up a set of non-legally binding Administrative Guidelines (the Guidelines) instead. The Guidelines aim at promoting racial equality within Government bureaus, departments and public bodies.

¹ Constitutional and Mainland Affairs Bureau, “The Administration’s further response to the major issues raised by the Committee”, March 2008.

2. Constitutional and Mainland Affairs Bureau, “Hearing of the Report of the Hong Kong Special Administrative Region under the International Convention on the Elimination of All Forms of Racial Discrimination”, 16 November 2009.



2. However, there is not additional manpower and resources are allocated to bureaus, departments and public bodies to implement the Guidelines; it does not cover the Police Force, Immigration Department and other disciplinary forces which provide key services seriously affecting rights and other entitlements of the ethnic minorities. And the most worse is that there are no disciplinary actions or other sanctions as consequences for failing to comply with it.
3. Basically, the Guidelines is voluntary nature and is entirely non-committal, it seriously undermines its effectiveness and also again reflects the lacks of commitment of the Hong Kong Government.
4. We noticed that the attached Annexes were perfunctory drafted. They were if not written by a same person, were copied from each other. Almost all the departments are just telling what they have been done or have been doing, there is nothing on the substantial review on their polices and practices. Taking Education Bureau as example, the School Place Allocation System, Mother-tongue Policy, Liberal Studies as one of the core subjects for New Senior Secondary Education, what sort of negative impacts will impose to ethnic minority students? What steps will the administration take to overcome? Another example is the Social Welfare Department, what sort of impacts to ethnic minority families in need under the current Integrated Social Services Mode? How to ensure members for the ethnic minority have equal access to those necessary social services? Etc.
5. The Unison urges the Government make the Guidelines obligatory by using ‘should’ instead of ‘may’, and extends it to all Government bureaus, departments and public bodies as well as setting up a Review and Monitoring mechanism for the implementation of the Guidelines. In addition, the bureaus and departments should re-draft their guidelines in a more sincerely and professional way which could effectively ensure and promote racial equality within Government.

D. Chinese language education for non-Chinese speaking (NCS) students (paragraph 31)

1. Hong Kong is claiming and promoting herself as a Centre of Education in the Pacific Asia, aiming at providing best quality of education. Yet, it is very shameful that Hong Kong cannot provide a suitable Chinese language education and quality education to its ethnic minority residents.



2. Owing to the considerable amount of difficulties in learning Chinese and the current assessment as well as the unfair school placement allocation system, ethnic minority children are put in a vulnerable and disadvantaged position. Generation by generation of ethnic minority people in Hong Kong could not break the cycle of poverty through education.
3. We are very pleased and welcome the Government has finally responded to our calling, lower the GCSE Chinese Exam fee to the same level as that of HKCEE Chinese. We believed the new measure would help to relieve financial burden of many ethnic minority families.
4. Nevertheless, the Unison considers the supports to ethnic minority students is still far from enough and effective. The Unison has repeatedly calling for formulating a policy on Chinese Language Education for non-Chinese speaking students and adequate supportive measures to schools and students. We are particularly pleased to see that the Committee also recognized our views by making clear that only the Supplementary Guide to the Chinese language curriculum is not enough to help ethnic minority students learn Chinese language effectively, ***'a policy on Chinese teaching for non-Chinese speaking should be developed... and efforts to improve the quality of its education should be intensified.'***
5. Besides, **Hon Margaret Ng** had moved a motion on *'Strengthening and continuously supporting the teaching and learning of Chinese for non-Chinese speaking students... with the ultimate objective of upgrading NCS students' Chinese proficiency, including listening, speaking, reading and writing, so that they can compete in the local employment market and gain entry to various professional sectors'* while **Hon Cheung Man-kwong** and **Hon Starry Lee** had moved amendments to the motion recently in the LegCo meeting on 18 November 2009. The motion and amendments were well supported and passed unanimously.
6. The Legislative Council urged the Government to adopt the following measures:
 - (a) *to provide suitable teaching materials and effective pedagogies so as to facilitate effective learning;*
 - (b) *to organize outreaching tutorial services to schools to provide ethnic minority students with language tutorials in Chinese, so that they will not lose their drive for learning because their Chinese proficiency continuously lags behind that of others;*



(c) *to formulate a Chinese language benchmark test suitable for NCS people, so that schools can use it as the teaching goal and various sectors can also assess their proficiency in Chinese in accordance;*

(d) *to enhance school teachers' understanding of cultural diversity and*

(e) *to subsidize their studying of relevant professional courses, so that teachers can support NCS students more effectively.*

7. The Unison urges the Government to submit its concrete plans in responding to the above measures calling by the LegCo.

E. Accurate Data Collection and studies

1. Accurate quantitative and qualitative data collection and studies could facilitate the Administration to understand so as to address the difficulties and situation that ethnic minority students are facing. Therefore, the Unison suggest the Government to conduct a full-scale, comprehensive, profession and independent study on ‘the needs and difficulties of ethnic minority students in learning Chinese language as well as their adaptation in mainstream schools’.
2. We noticed a study “Tracking the Adaptation and Development of Non-Chinese Speaking Children (NCS) in Mainstream Schools” was done by Professor Hou Kit-tai in 2008, yet, we consider it was just a ridiculous jest and a wasted of public fund. The study was unprofessional and un-academic which could not reflect any part of the real situation and difficulties that the ethnic minority students and teachers are facing in Chinese language learning and life situation in mainstream schools.

F. Conclusion

We sincerely hope that the Government would open their mind and listen to our views, making Hong Kong as a real and genuine International City by improving and modifying its existing racially discriminatory policies and practices so as in line with the international human rights standards.

