



香港融樂會有限公司
HONG KONG UNISON LIMITED

For discussion on 18 May 2020

**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 is a human rights-based organization fighting for racial equality. Under the Race Discrimination Ordinance (RDO), the Equal Opportunities Commission (EOC) bears great responsibility to maintain a proactive stance in handling racial discrimination cases and ensure equal opportunities in education and employment. This paper provides a brief account of the concerns of Hong Kong Unison on the work of the EOC.
2. Provision of equitable education opportunities for ethnic minorities has been an issue for more than a decade. In 2019/20, the EOC released 2 studies concerning education for ethnic minorities. They reported that they would follow up with the Education Bureau on the recommendations and would continue to develop easy guides and audio-visual kits etc. for schools. However, different from a Code of Practice, these booklets and kits can only serve as a reference with no legal implication. As a statutory body, the EOC should seriously consider developing a Code of Practice ('Code') on Education under the Race Discrimination Ordinance (there is a Code of Practice on Education under the Disability Discrimination Ordinance). Though a Code is not law, it shall be admissible in evidence and the court shall take into account relevant parts of the Code in determining any question arising from proceedings under the RDO. The Code of Practice provides a stronger legal implication on how each party should follow in order to comply with the RDO. The EOC should publish a Code of Practice on Education in the RDO to better protect ethnic minority students.
3. The UN Committee on the Elimination of Racial Discrimination in its Concluding Observations in 2018 raised concerns of the negative portrayals and hostile statements in traditional and social media targeting ethnic minorities (in particular South Asians) and that commensurate action was not consistently taken by the authorities in Hong Kong in response to acts of hate speech. To date, there has not been any prosecuted case on social media racist hate speech. The EOC mentioned that they could not take action against perpetrators on social media if the social media company holds data overseas. However Hong Kong and many countries e.g. USA, have signed the Mutual Legal Assistance Treaty (MLAT) with the purpose of gathering and exchanging information between countries in an effort to enforce public or criminal laws. To receive data of perpetrators, the EOC could have requested information under the MLAT, sent requests to the company and via the country's law enforcement. The EOC declined to reply Hong Kong Unison when asked about procedures of handling racist hate speech on social media. Our cases were closed and discontinued; the EOC cannot forego social media



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racist hate speech cases just because data of perpetrators is held in a different jurisdiction.

4. Hong Kong Unison urges the EOC to adhere to the principles of neutrality when it comes to using public education to nurture values of respect and inclusion among the public on discriminatory acts that are outside the EOC's jurisdiction. We noticed that the EOC is very proactive when such acts are against mainland Chinese but a lot more passive when such acts relate to ethnic minorities.
5. The EOC held 43 training sessions about cultural sensitivity and legal obligations under the RDO for Government departments, organisations and service providers; however, Hong Kong Unison has not noticed increased sensitivity especially among authorities. Hong Kong Unison suggests the curriculum of cultural sensitivity training be vetted and endorsed by an expert and urges the EOC to step up monitoring on knowledge, attitude, and behavioral changes to measure its effectiveness.
6. Similarly, merely signing the Racial Diversity and Inclusion Charter for Employers (RDI Charter) does not necessarily mean employers will build a racially diverse and inclusive workplace. The EOC should follow up with employers and make sure what they have promised in the charter are followed through.