

Panel on Constitutional Affairs

**Meeting on Monday, 16 July 2018, from 2:30 pm to 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Submission

1. In 2015, I published the first comprehensive report on the Status of Ethnic Minorities in Hong Kong 1997-2014, which serves as a compendium of the most significant publicly available research and census data pertaining to this community in Hong Kong. The Report takes a rights-based approach and analyses the research and data to outline the key challenges facing the community in terms of equality of access to life opportunities and their quality of life in Hong Kong across a range of realms.
2. The themes covered by the Report include equality and non-discrimination protections under Hong Kong law, citizenship, belonging and language, equality in access to education, employment opportunities, income, poverty, health and family life and law enforcement and crime. The areas are all specifically covered under both the CERD Convention and feature among the list of issues raised by the UN CERD Committee.
3. Based on the key observations outlined under each of these themes, the Report offers key recommendations for action. The action-items are applicable to a broad range of stakeholders, including the administration, government officials, departments and bureaux providing a range of services, and frontline professionals engaged in servicing Hong Kong's ethnic minority communities.
4. Many of the deputations have outlined the substantive issues which arise under many of these areas and made important recommendations, several of which have been repeated in this chamber on numerous occasions. Whilst these are indispensable short-term goals in order to bring HK into compliance with its obligations under the CERD Convention, it is imperative to recognise that these measures on their own are insufficient to bring about the systemic change needed in order to eradicate institutionalised discrimination which lies at the root of the statistics that we see.
5. The problem we have is one of institutionalised and structural discrimination. The solution to combatting such entrenched discrimination must therefore, also be structural. To this end, I urge the government to take the following ~~urgent measures to institute a systemic and cultural shift towards eradicating~~

racial discrimination and moving towards systemic equality and non-discrimination towards all.

6. **Enhance transparency and accountability by implementing monitoring and evaluation standards and measures.** The lack of data in a range of areas where ethnic minorities routinely experience discrimination and exclusion has been recognised as a critical barrier to the full implementation of racial equality.

- a. This requires the **availability of data disaggregated by race across areas of services, opportunities and policing.** Without available data to monitor the implementation of policies to combat racial discrimination, the existence of such policies or laws are tantamount to desiring stringent financial management but without the availability of financial records!

This is HK's situation unfortunately – we have many measures and policies but no records to gauge and evaluate progress or impact! What we do have however, are endless stories of systemic failings where individuals continue to experience inequalities on grounds of race. The measures do not help people like us. Look at EOC complaints under the RDO and the legacy of HK's RDO enacted 10 years ago.

Given that in the 10 years since its enactment, there has only ever been 1 case pursued through the courts or there have been NO EOC self-initiated inquiries under the RDO are not a testament to HK's unicorn status as racially inclusive society free from discrimination but rather, sounds loud alarm bells as to the critical failure of this legislation to serve as an effective vehicle for the pursuit of equality for HK's ethnic minorities.

- b. We need a **standardized framework to assist various bodies, including public authorities, NGOs, and other institutions to create, maintain and monitor benchmark data.** Data disaggregated by race is essential to highlight areas where inequalities persist, identify root causes, and to help devise strategies to address inequality and monitor the effectiveness of such strategies.
- c. This requires **training of personnel** involved in this work to build their capacities for deploying effective standards, to help them understand what they are collecting, and why it is important and also, to develop strict standards to ensure the proper usage of the data. For example, simply collecting data on ethnicity alone in the provision of

services may not provide the necessary information for that agency to better plan and target its services as there may be other identity markers such as birthplace or language which could highlight the particular barriers they may experience in terms of integration into Hong Kong. It is to enable such rigorous, dynamic and focused analysis to inform public policy and the allocation of resources that such data needs to be collected and collated in appropriate ways.

- d. There is a misconception that collecting such data in and of itself may amount to racial discrimination. The most frequently cited objection is that such data may be used to further stigmatise marginalized populations like ethnic minorities. However, that is a gross misunderstanding of the position and if it were the case, several countries around the world would be in violation given that they maintain such records. The key lies in responsible data collection and its management. Therefore, such measures must be accompanied by the **establishment of a protocol which guides and assures the public as to the use of this data** to address any potential challenges against data collection of this nature.
7. With data being available in place, we can highlight and prioritise key areas for urgent, intermediate and long-term action. Monitoring bodies such as the Equal Opportunities Commission, the Ombudsman, LegCo and other bodies such as UN CERD Committee can then evaluate and assess the status quo, progress made, enhance accountability and propose action.
8. Beginning with that we can then move to other structural measures including developing and implementing **Racial Equity Assessment and Racial Action Plan** across sectors but which is sector specific, a **Racial Equity Toolkit** to train key stakeholders across sectors in its use and eventually, a **Cross-Sectoral Racial Equity Compact** which serves to build and organize key partnerships across sectors to enable the enhancement of racial equity across areas of life.
9. To further complement these actions, the Government is urged to:
 - Set up a high-level taskforce, including ethnic minority experts, to focus on review, development, evaluation of policies and laws for their impact on ethnic minorities and to make recommendations for reform.
 - Appoint ethnic minorities to advisory and high-level government committees, so that they may participate and contribute their expertise and knowledge.

- Appoint a high-level minister in the government to be in charge of ethnic minority affairs such as a Commissioner for Ethnic Minority Affairs.
- Ensure regular opportunities for consultation with ethnic minority communities to hear from them about the priority areas that need most urgent attention but most critically, in all areas where policies and measures affect them. This would promote **Inclusive and Participatory Decision-Making**, enhance the visibility of ethnic minorities and demonstrate their expertise and potential to be part of the solution of various challenges which Hong Kong. Given the underrepresentation of EM in decision-making bodies, this is essential, given the imperative of inclusive governance and justice which is best captured by the slogan of disability rights advocates, “Nothing about us without us!”.

Developing and adopting monitoring indices to serve as Key Performance Indicators enable the measurement of progress. The measure of any society’s progress rests not only on its own report of what it has achieved but the availability of cross-time data of measures, their implementation and the efficacy of their outcomes. This provides objective evidence of impact.

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