

**Concluding Observations made by the United Nations Human
Rights Committee
on the Third Report of the Hong Kong
Special Administrative Region
in the light of the International Covenant on Civil and
Political Rights**

**Legislative Council Panel on Constitutional Affairs
20 May 2013**

Submission from the Equal Opportunities Commission

Purpose

This paper is to provide views of the Equal Opportunities Commission (“EOC”) on the Concluding Observations adopted by the United Nations Human Rights Committee (“Committee”) in its 107th session in March 2013 after considering the Third Report of the Hong Kong Special Administrative Region (“HKSAR”) in the light of the International Covenant on Civil and Political Rights (“ICCPR”).

Human Rights Institution (Article 2)

2. The Committee, in its Concluding Remarks, regrets that there is no independent statutory body to investigate and monitor violations of human rights guaranteed by the Covenant in a comprehensive manner and reiterates its previous recommendation that Hong Kong should consider establishing a human rights institution. The EOC shares the Committee’s concern and believes that a single statutory platform with a broad mandate covering all international human rights standards accepted by Hong Kong as part of the People’s Republic of China, should be established.

Gap in the Race Discrimination Ordinance (Article 26)

3. The EOC agrees with the Committee's recommendation on closing the gap between the Race Discrimination Ordinance ("RDO") and other Discrimination Ordinances. Unlike other Discrimination Ordinances, the RDO does not specifically apply to the Government in the exercise of its exercise of power and performance of its functions such as the operations of the police and the Correctional Services Department. In the meantime, while reform on the RDO is still pending, the EOC urges the HKSAR Government to extend the Administrative Guidelines on Promotion of Racial Equality (the Administrative Guidelines) to all government bureaux and departments and public authorities. The main administrative and executive functions of government are carried out by 12 policy bureaux and 61 departments and agencies. At the moment, the Administrative Guidelines are only extended to around 20 of them.

Provision of adequate education to ethnic minority students (Article 26)

4. The EOC supports the recommendation of the Committee that the HKSAR Government should intensify its efforts to improve the quality of Chinese language education for ethnic minorities. The EOC is of the view that more should be done to enable Non-Chinese Speaking students to start learning Chinese language at an early stage by strengthening pre-primary and junior primary language support, developing an alternative curriculum/qualification assessment, and capturing relevant information for policy formulation and improvement of support measures.

Outlawing discrimination on the ground of sexual orientation (Article 2 and 26)

5. The Committee has reiterated its concern that Hong Kong has not yet specifically legislated against discrimination on the ground of sexual

orientation. Complaints relating to sexual orientation are outside the jurisdiction of the EOC. Yet, for the three years from 2010 to 2012, the EOC received 1,258 public enquiries on sexual orientation. In the EOC Awareness Survey conducted in 2012¹, 43% of the 1,504 respondents believed that sexual orientation discrimination in Hong Kong was very serious/quite serious. The EOC believes that the HKSAR Government should conduct a public consultation on legislating against discrimination on the ground of sexual orientation as soon as possible.

Mental Health Policy (Article 26)

6. It is noted that the Committee has not commented on the lack of a mental health policy in the HKSAR and the need for establishing a high level broad based Mental Health Commission to co-ordinate the formulation and implementation of a mental health policy.

7. While discrimination on the ground of a person's mental illness is unlawful under the Disability Discrimination Ordinance ("DDO") in Hong Kong, the stigma attached to mental illness is still very serious. For the past three years, the EOC received an average of 100 complaints of disability discrimination on the ground of mental illness each year. That means, on average, 20% of the complaints received under the DDO are related to this type of discrimination from 2010 to 2012. Discrimination against and stigma attached to mental illness prevent persons to seek help until a crisis occurs, which in turn, further stamp the stigma on persons with mental illness and a vicious circle will continue.

8. Mental health requires more than a medical solution as they are influenced by a number of socio-economic factors. While the HKSAR Government has spent more resources in medical services in recent years,

¹ Equal Opportunities Commission (2013). *Equal Opportunities Awareness Survey 2012*. Available from: <http://www.eoc.org.hk/eoc/upload/ResearchReport/2013191436554640807.pdf>

the resources spent on anti-stigma campaign are minimal. The formulation of a comprehensive and long term mental health policy is therefore long overdue.

9. The EOC calls for a mental health policy in line with the ICCPR, the Convention on the Rights of Persons with Disabilities and other international human rights instruments with an emphasis on school as well as public education. The EOC recommends, on the one hand, the inclusion of mental health education into the school curriculum, so as to enhance the understanding of mental illness among young people, and to boost their “immunity” – the ability of living with pressure; on the other hand, the continuous provision of public education, in order to raise the awareness of mental health and to eliminate the stigma attached to mental illness.

10. The HKSAR Government has recently set up a Mental Health Service Review Committee with a view to promoting mental health, and strengthening support for persons with mental illness. Its first meeting was held on 6 May 2013 and yet the Government has not formally announced the membership of the Review Committee. According to those attending the first meeting, mental health service users and persons in recovery are not represented in the Review Committee. The EOC urges the Government to engage the service users and persons in recovery in the review process, in order to formulate a comprehensive mental health policy that is responsive to their needs. Engaging persons with mental illness and respecting their views in the policy making process are also important aspects of eliminating discrimination against them.