

Subcommittee on Poverty
Poverty Problems of Ethnic Minorities
17 November 2015

Submission from the Equal Opportunities Commission

Purpose of the Paper

The vision of the Equal Opportunities Commission (“EOC”) is to create a pluralistic and inclusive society free of discrimination and where there is no barrier to equal opportunities. A society without barriers allows everyone to maximize their potential and merit without regard to race, gender, disability or other differences. An equitable society gives everyone the opportunity for upward mobility. This paper sets out to provide the EOC’s views for the Subcommittee on Poverty regarding poverty problems among ethnic minorities (“EMs”).

Protection under the Race Discrimination Ordinance

2. To alleviate poverty and promote upward mobility, it is important that EMs have equal access to schooling and job opportunities and are given fair treatment during education and employment. Very often, the language barrier and low educational attainment have deterred upward mobility, making EMs unable to move away from poverty. Under the Race Discrimination Ordinance (“RDO”), it is unlawful for employers to discriminate against any person on the ground of his/her race in employment as well as other occupational relationships and matters, including but not limited to recruitment, appointment, dismissal and promotion.

Similarly, for educational establishment, discrimination against anyone because of his/her race in admission and other educational treatments would amount to direct discrimination.

3. Indirect race discrimination is also unlawful under the RDO. Given that language used by people is often associated with their race, unfair treatment based on language and religion may constitute indirect discrimination against EMs. The Code of Practice on Employment under the RDO¹ issued by the EOC stipulates that “employers must ensure that any language requirement (including academic qualification, fluency and accent requirement) for a job is relevant to and should be commensurate with the satisfactory performance of a job” (Paragraph 5.3.12 (1)). In this connection, if language is used as a criterion for recruitment, unless the employer is able to justify the criterion as essential for the job, having such a requirement may amount to indirect race discrimination. Similarly, using language as an admission criterion in an educational establishment where it cannot be justified might be indirect race discrimination.

4. Equal access to goods, facilities and services are also protected under the RDO. Accessing services that are employment related could have a direct bearing on poverty, such as services provided by job placement agencies or employment bureaus. In addition, services that are specifically meant for poverty alleviation should also be available to all who are eligible regardless of race.

¹ Equal Opportunities Commission (2009), *Code of Practice on Employment under the Race Discrimination Ordinance* .

EOC's Work on the Issue

5. After the implementation of the Race Discrimination Ordinance in 2009, the EOC issued the Code of Practice on Employment under the RDO to give practical guidance on how to prevent discrimination and harassment on the ground of race, and to promote racial equality and harmony in the employment field. To explain the RDO and the Code of Practice, the EOC provides regular training for both the public and private sectors.

6. In 2014, the EOC formed a dedicated multi-ethnic unit to strengthen its work on EMs. The unit is engaged in making policy recommendations and building partnerships with different industries to promote employment opportunities for EMs. Besides, through regular workshops and training, the unit also aims to promulgate the benefits of developing a culturally diversified workforce and raising the cultural sensitivity of service providers. In the past 6 months, 8 sessions have been conducted to different sectors including government departments, banks, small and medium enterprises (“SMEs”), associations of certain service industries, etc.

7. Given that education is closely tied to employability and career development, the EOC has made it a high priority to promote equal education opportunities for non-Chinese speaking (“NCS”) students, in particular to the learning of Chinese in primary and secondary schools and admissions to early and tertiary education. The EOC maintains regular communication with stakeholders such as the Education Bureau (“EDB”), administrators of local universities, school principals, EM community groups and leaders, NGOs working for EMs, etc. Through these connections, the EOC makes recommendations on the implementation of the

Chinese Language Curriculum Second Language Learning Framework and Applied Learning (Chinese) Subject in the Hong Kong Diploma of Secondary Education Examination by the EDB. Besides, the EOC also urges kindergartens to be open to admitting NCS students and strongly suggests that universities consider recognizing third-language skills in student admission.

8. The EOC has periodically conducted research related to the situation of EMs in Hong Kong. In the Study on Racial Encounters and Discrimination experienced by South Asians published in 2012, the EOC found that the most common types of discriminatory behavior against South Asians were related to finding employment and on-the-job treatment. Similar experiences were also reported in the study entitled Discrimination in the Workplace that was carried out in 2014 and looked at race discrimination among other types of discrimination specifically in the employment sphere.

Recommendations

Expanding Job Opportunities for Ethnic Minorities

9. EMs from the six most identifiable but marginalized ethnic groups (Filipinos, Indians, Indonesians, Nepalis, Pakistanis, and Thais) make up 1.7 percent of the Hong Kong population (113,815)². Relatively few of those who were born and raised in Hong Kong receive higher education and have the requisite proficiency in Chinese. Additionally, the higher degrees EMs obtain from their home countries

² Hong Kong Council of Social Service (2013), *Poverty in Focus 2013 : Poverty Situation of South & Southeast Asian Ethnic Minorities*.

are often not recognized in Hong Kong. Thus, they are often relegated to certain roles and industries with lower pay, more tedious or dangerous work and few opportunities for advancement. According to the 2011 statistics from the Census and Statistics Department, 42 percent of Hong Kong's Nepalese and 36 percent of Pakistani population are engaged in elementary occupations, compared to 20 percent of the whole population³.

10. Many EM job-seekers are deterred by the requirement of Chinese proficiency demanded by most job vacancies. These requirements may not be commensurate with the satisfactory performance of some of these jobs. For instance, advertisements for certain elementary jobs such as kitchen cleaning workers and construction workers often require applicants to be able to read Chinese even though, for some of these posts it is stated that schooling is not required. EMs simply find their job choices hugely limited. EMs who are highly educated in their home countries are also blocked from capitalizing on their professional knowledge and skills. The EOC thus advises the Labour Department to impose stronger monitoring on justifiable Chinese proficiency level in the job vacancies it receives and to consistently educate employers not to set requirements that might lead to direct or indirect discrimination.

11. The Government is also recommended to take a lead in promoting a multi-cultural workforce by reviewing the language proficiency requirements of more posts in the civil service, accepting results of non-local public examinations and making adjustments in the recruitment selection process. In addition, the EOC suggests that the Government recognize third-language capabilities particularly in

³ Census and Statistics Department (2011), *Thematic Report : Ethnic Minorities*

recruiting civil servants engaged in direct service to the public. For example, having more EM health-care professionals can surely enhance the efficiency and cultural sensitivity of hospital services. Besides, it is also advisable for the Government to mobilize major enterprises and utilities to embark on employment and career development campaigns for EMs. Through these initiatives, the Government could set an example for SMEs to increase their acceptance of hiring EMs and raise their awareness of fair treatment of EM employees.

Promoting Upward Social Mobility through Education

12. Many EMs have been encountering systemic barriers in upward social mobility. While 29 percent of Chinese youths aged 19-22 are receiving university education (locally and overseas), only 4 percent of Pakistani and 8 percent of Nepali youths are studying in university⁴. Learning Chinese is the major hurdle they face in advancing their education.

13. It is universally recognized by educationists and linguists that students tend to be more receptive to and capable of learning a foreign language at a younger age. Hence, learning Chinese from pre-primary levels would make a huge impact on NCS students by laying a solid foundation for their learning and integration into primary schools. However, many ethnic minority (EM) parents are not as well informed about local admission mechanisms and procedures as their Chinese counterparts. Besides, there are still a number of kindergartens that provide information and conduct admission interviews in Chinese language only. The Chinese proficiency requirement, if unjustly administered by kindergartens, may

⁴ Hong Kong Institute of Education (2013), *Study on Educational Inequality and Child Poverty among Ethnic Minorities in Hong Kong*.

amount to indirect discrimination. Therefore, the EOC advises the Education Bureau to monitor the admission practice of kindergartens and urges kindergartens to be more open to admitting EM students so that they could learn the language alongside Chinese students in an immersed environment.

14. In recent years, the Joint University Admission Programme (JUPAS) has accepted alternative Chinese-language qualifications for university admissions from NCS students who have met the specified criteria. This has raised the number of EM students in local universities, though the overall number remains very low. However, this only applies to general admissions, as specific faculties may impose their own Chinese-language requirements and thus limit the options for fields of study for EM youth.

15. People having third-language skills would be better adapted to living in a diverse society, more internationally minded and more effective at resolving cross-cultural conflict. The EOC thus urges all local universities, the Vocational Training Council and tertiary institutions offering sub-degree courses to adopt a flexible approach to recognizing third-language skills as an additional credit in student admission so that more EM students could pursue tertiary education. In addition, more training options and courses should be made available to them along with more language support and accommodation. For EM youths, this would hugely expand their opportunities for career development and upward social mobility. For the society, their skills could be capitalized to serve both the Chinese and non-Chinese communities, further contributing to a diverse and inclusive society.

Strengthening Language Support & Cultural Sensitivity in Service Provision for EMs

16. EMs who don't speak Chinese and English as well as those who can only communicate with others in simple English are certainly one of the most vulnerable groups that face poverty problems. The language barrier not only put additional impediments for job-seeking but is also a major obstacle in obtaining housing and other financial assistance. From time to time, it has been brought to the attention of the EOC that the provision of interpretation services in government offices related to employment, housing and financial assistance is not consistent and up to standard.

17. The EOC therefore advises service providers particularly in government offices not to simply rely on using English as the communication medium or inviting the service applicants' friends or family members to interpret when the applicants are not native speakers of Chinese and English. Since not many EMs are aware of the availability of interpretation services and their right to ask for it, it is also recommended that government offices put in place a protocol requiring interpretation service as standard procedure without the need for EM applicants to initiate the request. Such offices may include but are not limited to the Integrated Family Service Centres and Social Security Field Units of the Social Welfare Department, jobs centres of the Labour Department, information centre and customer service centre of the Housing Authority, etc. For the financial assistance provided by the Student Finance Office, schools should also make sure that information on eligibility and application process is communicated clearly to EM parents.

18. More often than not, applications for housing and financial assistance, where interpretation service has been provided, proceed more smoothly without requiring the applicants to visit the office repeatedly for additional clarifications and submission of supplementary documents. Promptness and readiness of the office staff to provide support always makes a difference in helping EM applicants to address their housing and other needs. To this end, systematic training for frontline office staff on the needs of EMs and cultural sensitivity is highly recommended.