

## **Panel on Constitutional Affairs**

### **Outcome of the Hearing of the Report of the Hong Kong Special Administrative Region by the United Nations Committee on the Elimination of Racial Discrimination under the International Convention on the Elimination of All Forms of Racial Discrimination**

#### **Submission from the Equal Opportunities Commission**

##### **Introduction**

Regarding the Third Report of the Hong Kong Special Administration Region under the International Convention on the Elimination of All Forms of Racial Discrimination, the Equal Opportunities Commission (EOC) has submitted an independent report to the United Nations Committee on the Elimination of Racial Discrimination (the “Committee”) and made a submission to this Panel on 16 July 2018 (LC Paper No. CB(2)1821/17-18(01)). This paper provides the views the EOC on the concluding observation of the Committee published on 30 August 2018 and the Government’s subsequent response.

##### **Concerns and Recommendations**

2. The EOC acknowledges the Government recent commitment to a list of measures to strengthen the support for EMs in the 2018 Policy Address, among which some were in response to the Committee’s concluding observations, e.g. providing more cultural sensitivity/equal opportunities training for civil service new recruits and front-line staff; forming new service teams to support EMs in employment and access to welfare services, etc. We are particularly pleased to note the setting up of the Steering Committee on EM Affairs chaired by the Chief Secretary for Administration and the allocation of \$500 million to enhance support for EMs. However, the following issues are still considered to be in need of immediate attention from the Government.

##### ***Limitation of the Race Discrimination Ordinance (RDO)***

3. The EOC has made 27 priority recommendations in the Discrimination Law Review conducted in 2014. We acknowledge the Government’s decision to

take forward eight of the 27 but also urge the Government to look at the outstanding recommendations.

4. One of the major gaps in protection under the RDO lies in its power over the Government. Although the RDO binds the Government and prohibits discriminatory acts and practices of the Government in all the areas specified in the RDO, such as employment, education, the provision of goods, facilities or services; and the disposal or management of premises, RDO does not cover race discrimination by any Government departments/bureaus in the performance of their functions and exercise of their powers. This gap is particular of the RDO and is not consistent with the other three discrimination ordinances. The EOC has recommended in its Discrimination Law Review as well as in its independent report to the Committee that the RDO be amended to include Government functions and exercise of powers.

### ***Racist Hate Speech and Hate Crimes***

5. The EOC has been working to address the issue of racial hate speech in social media. We continue to discuss with a major social media operator ways to enforce the law on prohibiting racial vilification while also looking into our legal power in conducting investigation on online hate crime. Meanwhile, we concur with the Committee's recommendation that Government should strengthen support and law enforcement power in this area and Government leaders as well as politicians should publicly condemn racist hate speech and crimes.

### ***Employment & Poverty Reduction***

6. With the undeniable correlation of poverty with employment and education opportunities, the EOC supports the Government's recent measures to promote language training and vocational training for EMs. However, we believe the Government needs to more actively encourage employment opportunities for EMs, firstly by opening up more Government jobs for them and secondly by incentivizing employers to recruit EMs. With language constantly being stated as a barrier, the Government is encouraged to lead the way in overcoming the barrier through on-the-job language training and incentive schemes for new recruits.

7. The EOC has recently launched the Racial Diversity & Inclusion Charter for Employers, with the ultimate goal of encouraging employers to make their jobs, training and promotion opportunities available for qualified EM candidates. Stronger support from the Government in similar initiatives targeting employers is essential because, without employers' involvement, the support measures for EMs job seekers are to no avail.

### *Education*

8. The Chinese Language Curriculum Second Language Learning Framework (the "Learning Framework") has been in place since 2014 but feedback from our ten stakeholder sharing sessions with non-Chinese speaking (NCS) students, EM parents, teachers and NGOs respectively, was not very promising toward the effectiveness of the Learning Framework. Many stakeholders point out the lack of second language elements in the Learning Framework and fragmented Chinese examination ladder, with a huge gap between the levels of GCE/GCSE Examination and HKDSEE; while the Applied Learning (Chinese) Subject is not structurally related with both examinations curriculum-wise. The Working Group on Education for EMs under the EOC is now examining the shortfalls and obstacles of the current system and will submit a report next year.

9. One of the issues repeatedly brought to our attention is teachers' consistent difficulty in creating teaching and learning materials for second language learners of Chinese and the unavailability of suitable published materials. The EOC welcomes the Government's efforts in publishing more textbooks to go with the Learning Framework and urges the Education Bureau to continue with the exercise and produce textbooks for all levels of the Learning Framework.

10. Rejection of EM applicants by kindergartens and schools continues. From a telephone survey carried out by the EOC in 2017, one in four kindergartens gave rejecting, discouraging or highly ambiguous responses when asked about admitting NCS students. The most commonly heard response is that the EM child will not be able to cope in the Chinese environment. It appears that a considerable number of kindergartens and schools are not adequately equipped to cater to the needs of EM students.

11. While it is encouraging to see the increase in the number of schools admitting NCS students, there continues to be high concentration in the previously “designated” schools. The absence of a viable middle ground between these schools and schools with an immersed Chinese language environment will continue to cause these concentrations in a few schools. The resulting lack of integration and language learning opportunities is a high cost to pay.

### ***Foreign Domestic Workers***

12. While EOC is fully cognizant of the grounds for the Government’s enforcement of the live-in requirements and “two-week” rule for foreign domestic workers (FDWs), our concern arises from the resulting vulnerability of these workers to sexual harassment and their inability to report it.

13. It has been repeatedly brought to EOC’s notice that due to the constrained live-in conditions, often FDWs lack privacy and become easy targets for sexual harassment by the employer/family members/residents. Secondly, the live-in requirement makes it difficult for them to leave the house and seek help outside.

14. The two-week rule also adds to their vulnerability because they fear losing their job and not being able to find one in two weeks if they resist the sexual advances or threaten to report.

15. The EOC urges the Government to reconsider the above two rules in light of protecting FDWs from potential abuse, not to mention overwork and a lack of recourse to justice in case of a violation of their rights.

### **Conclusion**

16 The above assessment and recommendations are made on top of our previous submissions to the United Nations and this Panel in July. We will continue to work with stakeholder groups and the Government to improve our policies, support measures and legislations to progress our city toward a truly inclusive society.

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*Equal Opportunities Commission*  
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