

**Joint Submissions of Hong Kong Unison and Society for Cultural
Integration to the Panel on Constitutional Affairs
on the hearing of the United Nations Human Rights Committee on the
third report of the HKSAR in light of the ICCPR**

20 May 2013

The concerns shown by the Human Rights Committee over the education for ethnic minorities and the defects of the Race Discrimination Ordinance show that the policy and the Ordinance do not fully meet international human rights standards.

Chinese language education for ethnic minorities

Teaching Chinese as a second language

In its concluding observations, the United Nations Human Rights Committee shows its concern that ethnic minorities are underrepresented in higher education and that there is no official education policy for teaching Chinese as a second language. The Committee states that the Government should intensify its efforts to improve the quality of Chinese language education for ethnic minorities in collaboration with the Equal Opportunities Commission and other groups concerned.

These recommendations of the Committee, which has the power to interpret the ICCPR, show that government policies should be based on substantive equality rather than formal equality to truly meet human rights standards. Therefore, the Education Bureau should not have the mentality that one policy and one curriculum for all, native Chinese speakers or not, is good enough. Ethnic minority students' need in learning Chinese should be addressed in order to provide truly equal opportunities.

Schools with a high percentage of ethnic minority students

The Human Rights Committee also recommends the Government to encourage the integration of students of ethnic minorities in public school education. We believe this point relates to the existence of schools with a high percentage of ethnic minority students (used to be called “designated schools” by the Education Bureau and now called “schools provided with recurrent funding by the Bureau to enhance school-based support in servicing the needs of

non-Chinese speaking students” by the Bureau) and the resulting de facto racial segregation.

Urgency and gravity of the matter

The education of ethnic minorities is one of the three issues for which the Committee requires the HKSAR Government to provide information on the implementation of the Committee’s recommendations within a year. This shows the urgency and gravity of the matter. Also, during the hearing, it expressed concern over finding in the Report on the Working Group on Education for Ethnic Minorities that only 0.59% of students at the post-secondary level are ethnic minorities. We believe that the outcome of our education policy is alarming to the Committee and shows that the policy is problematic. It is time for the Education Bureau to stop taking piecemeal measures and start to implement a “Chinese as a second language” curriculum and combat the de facto segregation in the public school system on a systemic basis as soon as possible.

Our demands

The Equal Opportunities Commission should, either under the instruction of the Chief Secretary or on its own initiative, conduct a formal investigation on the education policy for ethnic minorities as soon as possible.

We hope the Legislative Council will request the Government to submit a progress report on the concrete measures and their effectiveness before the Government submits that to the Human Rights Committee next year.

We are always ready to have a constructive dialogue with the Education Bureau on the matter. We hope the Education Bureau will recognize the urgency and gravity of the issue and collaborate with us and other NGOs or concern groups, as recommended by the Human Rights Committee.

Defects in the Race Discrimination Ordinance

The Committee notes with concern that the Race Discrimination Ordinance does not specifically apply to the Government in the exercise of its public functions. We urge the Government to rectify a key gap in the Ordinance in close consultation with the Equal Opportunities Commission as recommended by the Human Rights Committee.

The importance of meeting human rights standards and the obligation of the government to report to United Nations treaty bodies

In recent years, comments that Hong Kong need not meet standards set by the United Nations have come to our attention. We maintain that the international treaties, whose implementation is monitored by the United Nations treaty bodies, set out universal human rights standards agreed upon internationally. The Basic Law also provides that international agreements implemented in Hong Kong before the handover may continue to be implemented. In fact, much of our law and many of our policies in the areas of education, employment, etc are put in place because we recognize the importance of meeting these international human rights standards in our society.

Also, the Government's responses to the Human Rights Committee during the meeting were unprofessional and affected the international image of Hong Kong. For example, the Government repeated its usual argument that parents choose to send their children to schools with a high percentage of ethnic minority students in response to concerns raised over the related de facto racial segregation effect. This response is clearly not grounded as the Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions concerning children taken by administrative bodies.

The Government should also take its international obligation to report to the treaty bodies more seriously. When the Human Rights Committee enquired about the number of ethnic minority Legislative Councillors in the hearing in the 107th session, the Government, which had the time to prepare the figure, simply stated that there was no figure. This shows the Government does not take the obligation to report to the Committee, which was freely entered into, seriously. Also, only genuinely effective policies and not those which look good on paper can protect the right to education and equal opportunities of ethnic minorities, which is part of the mission of the Education Bureau and the Government as a whole. We hope that the Government is sincere and serious in implementing the recommendations of the Committee and have concrete progress to report in the information to be submitted to the Committee in one year.