



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

Distr.: General  
5 April 2017  
English  
Original: Chinese and English  
Chinese, English, French and  
Spanish only

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**Committee on the Elimination of Racial Discrimination**

**Consideration of reports submitted by States parties under  
article 9 of the Convention**

**Fourteenth to seventeenth periodic reports of States parties due in 2015**

**Hong Kong, China\* \*\* \*\*\***

[Date received: 24 January 2017]

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- \* The present document is part of the State party report of China (CERD/C/CHN/14-17), which also includes the report of Macao, China (CERD/C/CHN-MAC/14-17).
  - \*\* The present document is being issued without formal editing.
  - \*\*\* The annex to the present report is on file with the Secretariat and is available for consultation.

GE.17-05177(E)



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*List of abbreviations*

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Basic Law	Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
BOR	Hong Kong Bill of Rights
C&ED	Customs and Excise Department
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CFA	Court of Final Appeal
CGs	Consulates-General
Code	Code of Practice on Employment
CoP	Commission on Poverty
CPCE	Committee on the Promotion of Civic Education
CPRH	Committee on the Promotion of Racial Harmony
CSD	Correctional Services Department
CSSA	Comprehensive Social Security Assistance
EDB	Education Bureau
EM Unit	Ethnic Minorities Unit
EOC	Equal Opportunities Commission
FDHs	Foreign domestic helpers
HAD	Home Affairs Department
HD	Housing Department
HKBORO	Hong Kong Bill of Rights Ordinance
HKSAR	Hong Kong Special Administrative Region of the People's Republic of China
ImmD	Immigration Department
ILO	International Labour Organization
LD	Labour Department
LegCo	Legislative Council
MAW	Minimum Allowable Wage
NCS	Non-Chinese speaking
NGOs	Non-governmental organisations
PICs	Persons in Custody
Police	Hong Kong Police Force
PRH	Public rental housing
RDO	Race Discrimination Ordinance
SEC	Standard Employment Contract
SMW	Statutory Minimum Wage

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*List of abbreviations*

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SSA	Social Security Allowance
The Committee	The Committee on the Elimination of Racial Discrimination
The Convention	International Convention on the Elimination of All Forms of Racial Discrimination
The Guidelines	The Administrative Guidelines on Promotion of Racial Equality
The previous Concluding Observations	The Committee's Concluding Observations of September 2009
The previous report	The second report of the HKSAR
The Refugee Convention	The 1951 United Nations Convention relating to the Status of Refugees
The Report	The third report of the HKSAR
USM	Unified screening mechanism
“Learning Framework”	“Chinese Language Curriculum Second Language Learning Framework”

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## **Preamble**

### **The Report**

This report (the Report) is the third report of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) under the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention), as part of the Fourteenth to Seventeenth Reports of the People's Republic of China under the Convention. It updates the Committee on the Elimination of Racial Discrimination (the Committee) on developments since the submission of the second report of the HKSAR (the previous report) in June 2008. It also responds to the Committee's Concluding Observations of September 2009 (the previous Concluding Observations) which were adopted after the Committee had considered the previous report in August 2009.

The HKSAR Government has undertaken to provide a detailed response to the concerns and recommendations of the Committee in respect of the HKSAR in the Report. In preparing the Report, the HKSAR Government has, in accordance with past practice, set out in an outline the broad subject headings and individual topics proposed to be covered in the Report. This outline for consultation was issued to stakeholders including the Legislative Council (LegCo) and interested non-governmental organisations (NGOs), and was made available on the HKSAR Government website and at the 20 Public Enquiry Service Centres of the Home Affairs Department (HAD). In addition to Chinese and English, the outline was translated into six ethnic minority languages (Indonesian, Hindi, Nepali, Tagalog, Thai and Urdu) and distributed to the ethnic minority groups via channels of the HAD. The public were invited to submit from 19 October to 27 November 2015 their views on the HKSAR Government's implementation of the Convention in respect of those topics. The public were also invited to suggest additional topics that should be included in the Report. The HKSAR Government has also consulted the relevant LegCo Panel during the period.

The views and comments received have been carefully considered in drafting the Report. The Report will be made available to stakeholders, including members of the LegCo and interested NGOs, and will be distributed to the public through the Public Enquiry Service Centres of the HAD. It will also be accessible to members of the public through public libraries and the HKSAR Government website.

### **Support for Ethnic Minorities**

Many ethnic minorities have been residing in Hong Kong for generations, and have played important roles in shaping Hong Kong's history. In particular, as promulgated in the 2014 Policy Address by the Chief Executive of the HKSAR, the HKSAR Government has implemented a number of measures to strengthen education support and employment services for ethnic minorities and to help them integrate into the community. Highlights of these measures are set out as follows, and will be elaborated in the ensuing paragraphs –

#### **Education (paragraph 5.66)**

- (a) Providing the "Chinese Language Curriculum Second Language Learning Framework" with supporting learning and teaching materials, and increasing funding support to schools to implement the new framework;
- (b) Providing an Applied Learning (Chinese Language) subject to be pegged at the Qualifications Framework at senior secondary level;
- (c) Encouraging parents of non-Chinese speaking (NCS) students to let their children start learning Chinese at the pre-primary stage through district-based projects/programmes;

**Employment (paragraphs 5.18, 5.45 to 5.47)**

(d) Implementing measures to ensure that ethnic minorities have equal access to job opportunities in the HKSAR Government, such as reviewing and adjusting the Chinese language proficiency requirements and recruitment formats;

(e) Modifying the recruitment test for Police Constables to require candidates to write English in addition to Chinese for situations simulating police operations, and awarding extra marks for possessing foreign/ethnic language skills;

(f) Continuing to canvass suitable vacancies for ethnic minorities and organising job fairs to help ethnic minorities secure employment;

**Community outreach (paragraph 2.14)**

(g) Setting up a new support service centre for ethnic minorities in Kwai Tsing district;

(h) Setting up youth units in all six ethnic minority support service centres and two sub-centres to provide dedicated programmes such as sports and cultural activities to help the personal development of ethnic minority youths;

**Public Education (paragraphs 2.5 to 2.6, 7.1 to 7.12)**

(i) Producing a TV documentary series and conducting a school outreach programme to help the public understand the cultures and customs of ethnic minorities; and

(j) Setting up an Ethnic Minorities Unit (EM Unit) under the Equal Opportunities Commission (EOC) to promote racial equality.

## **Article 1: Definition of racial discrimination**

1.1 Human rights are fully protected by laws of the HKSAR. It is also the HKSAR Government's firm policy that the HKSAR is opposed to all forms of discrimination, including racial discrimination. The legal safeguards are clearly enshrined in the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law) and in local legislation, including the Hong Kong Bill of Rights Ordinance (Cap. 383) (HKBORO) and four anti-discrimination ordinances, i.e., the Sex Discrimination Ordinance (Cap. 480), the Disability Discrimination Ordinance (Cap. 487), the Family Status Discrimination Ordinance (Cap. 527), and the Race Discrimination Ordinance (Cap. 602) (RDO). These are buttressed by the rule of law and an independent judiciary. Details of the HKSAR Government's policy with specific reference to racial discrimination and the legal framework for protection against such discrimination are described in paragraphs 2.1 to 2.8 below, as well as in paragraphs 39 to 60 of the Common Core Document.

1.2 To better protect individuals from racial discrimination, the HKSAR Government introduced the RDO which was enacted in July 2008 and came into full operation in July 2009. The EOC, an independent statutory body, is the enforcement agency of the RDO and the other three anti-discrimination ordinances.

1.3 Under the RDO, "race" in relation to a person means the race, colour, descent or national or ethnic origin of the person, in line with the definition under Article 1(1) of the Convention. Nevertheless, in paragraph 27 of the previous Concluding Observations, the Committee expressed concern that the definition of racial discrimination in the RDO was "not completely consistent with Article 1 of the Convention" and recommended that "indirect discrimination with regard to language, immigration status and nationality be included among the prohibited grounds of discrimination" in the RDO.

1.4 On this front, the EOC is carrying out a review on the four existing anti-discrimination ordinances in the HKSAR, including the definition of race in the RDO. The EOC conducted a public consultation from July to October 2014 and undertook to give thorough and due consideration to all the views expressed during the public consultation, conduct thorough research drawing on the experiences of other jurisdictions, and balance the interests and concerns of all the stakeholders in the community before making its recommendations. After receiving the EOC's recommendations, the HKSAR Government will consider whether and how to follow up.

1.5 Further details of the RDO will be elaborated in the context of implementation of Article 2. As the RDO has been covered at the hearing of the previous report, its detailed content has not been repeated in this Report. The general background information, including the demographic composition of the population in the HKSAR, is set out in the Common Core Document. Issues relating to special groups and ethnic minorities are addressed in paragraphs 2.20 to 2.34 below.

## **Article 2: Policy of eliminating racial discrimination**

### **Overall legal framework**

2.1 The HKSAR Government is committed to eliminating racial discrimination and promoting equal opportunities for ethnic minorities. The Basic Law, the HKBORO and the RDO provide the legal framework to prohibit discrimination, including on the ground of race. As described in paragraphs 2 to 5 of the initial report, the Basic Law offers protection for fundamental rights and freedoms and safeguards equality before the law. It is complemented by the HKBORO, which has incorporated into local law the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong. The HKBORO binds the HKSAR Government and all public authorities and any person acting on behalf of the HKSAR Government or a public authority.

## **Policy of eliminating racial discrimination**

2.2 The HKSAR Government is committed to the promotion of equal opportunities for all and firmly believe that all forms of discrimination — including racial discrimination — are wrong. At the same time, it is believed that each form of discrimination has its own characteristics, including the particular ways in which they may be manifested in Hong Kong. Therefore, the strategies for combatting discrimination must be tailored and appropriate to the particular form of discrimination that they are intended to address. In general, it is believed that, in the interest of social harmony, promotion of integration and public education on equality remain the quintessential vehicles for eliminating prejudice and discrimination. In addition, four anti-discrimination ordinances have been enacted to prohibit discrimination on the grounds of sex, disability, family status and race in specific areas in both the private and the public sectors.

### **Race Discrimination Ordinance**

2.3 The RDO enacted in 2008 is closely modelled on the other three anti-discrimination ordinances, namely, the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance. As with these three ordinances, the RDO provides that it is unlawful to discriminate against a person on the ground of race in specified areas, including employment, education, the provision of goods, facilities or services, and the disposal or management of premises. The RDO also makes racial harassment (engaging in unwelcome conduct that offends, humiliates or intimidates another person, or conduct that creates a hostile or intimidating environment for that other person) and vilification (by any activity in public, inciting hatred towards, serious contempt for, or severe ridicule of, another person) unlawful. The legislative history and public discussions on the RDO had been outlined in paragraphs 63 to 72 of the previous report.

2.4 Paragraph 28 of the previous Concluding Observations recommended the effective implementation of the law and that the EOC be strengthened. Under the RDO, the EOC is entrusted with the functions and powers to work towards the elimination of racial discrimination and to promote equality of opportunity and harmony between persons of different racial groups. It has the power to conduct formal investigations and obtain information in accordance with the RDO. The EOC is empowered to deal with individual complaints and provide legal assistance. In addition, the EOC can make recommendations to the HKSAR Government for amending the anti-discrimination ordinances, including the RDO.

2.5 In 2014-15, the HKSAR Government provided an additional recurrent funding of \$4.69 million to the EOC for setting up a dedicated EM Unit to enhance the EOC's work on promoting equal opportunities and racial integration by:

- (a) Improving equal educational opportunities for ethnic minority students;
- (b) Enhancing ethnic minorities' employment opportunities;
- (c) Deepening social inclusion and understanding between ethnic minorities and other communities including Chinese; and
- (d) Educating providers of goods, services and facilities on cultural sensitivity for serving ethnic minority customers.

2.6 Strategically, the EM Unit aims to address the needs of ethnic minorities through the three-pronged approaches of policy, training and outreach. On the policy level, the EM Unit liaises with relevant Government bureaux and departments, business associations, employers and other stakeholder groups to strive for the development or enhancement of policies and guidelines that facilitate the promotion of equal opportunities and inclusion of ethnic minorities. In terms of training, the EM Unit devises cultural sensitivity training for service providers with regard to the difficulties experienced by ethnic minorities in accessing different services. On outreach, the EM Unit aims to establish regular communications and networks with ethnic minority leaders, community groups, tertiary institutions and other stakeholders. Further details on the work of the EM Unit are elaborated in paragraphs 7.11 to 7.12 below.

### **Application to public bodies and law enforcement agencies**

2.7 The HKBORO in general prohibits the HKSAR Government and public authorities (including law enforcement agencies) from engaging in practices that would entail any form of discrimination, including discrimination on the ground of race. Avenues are available to address complaints against public authorities through The Ombudsman, the Complaints Against Police Office, complaint channels in Bureaux and Departments, LegCo, and the courts of law. It should, therefore, be emphasised that public bodies, including law enforcement agencies, have always been prohibited from practising racial discrimination under the HKSAR's legal framework.

2.8 Paragraph 28 of the previous Concluding Observations recommended that all Government functions and powers be brought within the scope of the RDO. The RDO binds the Government (section 3 of the RDO) and therefore, prohibits discriminatory acts and practices of law enforcement agencies and other public authorities 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. In particular, section 27 of the RDO renders it unlawful for the HKSAR Government to discriminate against a person in the provision of the services of any department of the HKSAR Government or any undertaking by or of the HKSAR Government.

### **Administrative measures to promote racial harmony**

2.9 In addition to compliance with the legal requirements, the HKSAR Government has also been taking special measures to promote racial equality with a view to ensuring that persons of different races have equal access to, and benefit from, resources and opportunities available in society.

2.10 In 2010, the HKSAR Government issued the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) to provide general guidance to relevant Government bureaux and departments and public authorities to promote racial equality and ensure equal access by ethnic minorities to public services in key areas concerned, and to take this into account in their formulation, implementation and review of relevant policies and measures. The Guidelines cover the key public services which are particularly relevant to meeting the needs of ethnic minorities and facilitating their integration into the community, namely, medical, education, vocational training, employment and major community services.

2.11 The scope of application of the Guidelines covered 14 Government bureaux and departments and public authorities in 2010, and has expanded to 23 in 2015.<sup>1</sup> The Guidelines have been operating smoothly. The HKSAR Government will keep the scope and coverage of the Guidelines under review.

2.12 Relevant Government bureaux, departments and public authorities are responsible for implementing and monitoring the implementation of the Guidelines, and for ensuring racial equality and equal access to public services under their respective policy purview. Individual measures taken by the concerned bureaux and departments are outlined under Article 5.

### **Support services provided to ethnic minorities**

2.13 The HKSAR Government firmly believes that legislation must go hand in hand with public education and support for better integration.

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<sup>1</sup> The 23 bureaux and departments and public authorities include the Education Bureau, Social Welfare Department, Labour Department, Home Affairs Department, Employees Retraining Board, Vocational Training Council, Food and Health Bureau, Department of Health, Hospital Authority, Construction Industry Council, Office of the Government Chief Information Officer, Innovation and Technology Commission, Office of the Communications Authority, Housing Department, Hong Kong Observatory, Post Office, Legal Aid Department, Hong Kong Police Force, Correctional Services Department, Customs and Excise Department, Immigration Department, Fire Services Department and Registration and Electoral Office.



2.14 In 2002, the Race Relations Unit was set up within the Home Affairs Bureau, both to render secretarial support to the Committee on the Promotion of Racial Harmony (CPRH) and to provide a range of services to promote racial harmony and facilitate the integration of ethnic minorities in the community. Its work on integration programmes help minority communities — whether established or newly arrived — to adapt to the Hong Kong way of life, as follows:

(a) **Support Service Centres for Ethnic Minorities:** The HAD has commissioned NGOs to run six support service centres and two sub-centres for ethnic minorities, including the latest one set up in the Kwai Tsing District in 2014, offering tailor-made classes, counselling, integration programmes and employment services to help them integrate into the community. Youth Units in these centres provide sports and music programmes and other dedicated activities for ethnic minority youths. One of the centres also provides telephone interpretation service and translation service to assist ethnic minorities in their use of public services;

(b) **Community Support Teams for Ethnic Communities:** the HAD provides sponsorship for the establishment and operation of a Pakistani team and a Nepalese team. The two teams are operated by their respective ethnic minority community groups. Both teams offer a range of services (such as answering general enquiries, making referrals to Government departments and escorting ethnic minority users to public service providers) to members of their own communities in their own languages and in a culturally sensitive manner;

(c) **Hotline for enquiries:** The HAD operates a hotline to answer enquiries from ethnic minorities on support services;

(d) **Your Guide to Services in Hong Kong:** This is a service guidebook that is available in seven languages, namely English, Indonesian, Tagalog, Thai, Hindi, Nepali and Urdu. The guides provide comprehensive information on HKSAR Government and NGO services and are tailored to the needs of each client community;

(e) **Mobile Information Service:** A team of “information ambassadors” recruited from the main ethnic minority communities is employed and stationed at the Hong Kong International Airport. The ambassadors distribute information kits to ethnic minority workers and immigrants on their arrival and handle enquiries in their own native languages;

(f) **Language courses:** The HAD funds NGOs for the provision of training courses in Cantonese and English for members of ethnic minorities. The Unit co-ordinates the programme and promotional efforts to publicise the availability of such language classes to the various ethnic communities;

(g) **Cross-Cultural Learning Youth Programme:** This is to help ethnic minority youths to adapt to school life in Hong Kong through such means as Cantonese lessons and after-school tutorial classes;

(h) **Radio programmes:** The Race Relations Unit is responsible for launching and funding ethnic minority language programmes on local radio stations. Weekly programmes targeting ethnic communities are aired in Urdu, Nepali, Indonesian, Hindi and Thai; and

(i) **Harmony Scholarships Scheme:** The scholarship aims to award and recognise students’ participation in school and community services (particularly activities promoting racial harmony), their academic results and conduct.

2.15 The HKSAR Government also maintains continuing dialogue with ethnic minority groups through regular liaison, the CPRH and the Ethnic Minorities Forum, which will be elaborated under Article 7. The HKSAR Government shall continue to develop and enhance relevant services as necessary and appropriate.

#### **Cultural sensitivity training provided to public officers**

2.16 Cultural sensitivity training is provided to Government officials and public authorities in relation to the application of equal opportunities under the Basic Law, the HKBORO and the RDO.

2.17 The Civil Service Training and Development Institute of the Civil Service Bureau organises seminars for Government officers at different ranks. These include seminars, organised in collaboration with the EOC and/or NGOs, on the RDO and on enhancing staff sensitivity and understanding of race-related issues, including particularly their appreciation of cultural differences and their awareness of the special needs of members of the ethnic minorities. The HKSAR Government also provides learning resources to promote awareness in recognising and valuing racial diversity and equal opportunities via the Cyber Learning Centre Plus website.

2.18 For example, cultural sensitivity training is provided to new recruits of the Correctional Services Department (CSD). Relevant concepts and knowledge include the Standard Minimum Rules for the Treatment of Prisoners, the HKBORO and the RDO. Relevant information is also provided to serving staff through in-service training. In addition, representatives from the Consulates in the HKSAR are invited from time to time to deliver talks to CSD staff in relation to the geographical and historical contexts, different ethnicities and cultures, living habits and taboos as well as religions and beliefs of the respective countries. The CSD also provides staff with training on ethnic minority languages including Nepali, Urdu, Vietnamese, Indonesian and Punjabi from time to time.

2.19 For the Immigration Department (ImmD), all new recruits are required to receive training relating to the RDO. Information on equal opportunities is also included in the training for in-service staff to enhance their awareness of cultural differences. Also, for the Hong Kong Police Force (Police), all officers are trained on the requirements of the RDO and related guidelines on racial equality during basic and in-service training at Police College. From time to time, seminars and experience-sharing sessions are provided for officers to enhance their understanding and awareness of the languages and cultures of ethnic minorities.

### **Special groups**

2.20 This section focuses on two groups which are the subject of concern both locally and internationally. They are: foreign domestic helpers (FDHs) and illegal immigrants, including those seeking non-refoulement protection.

#### **Foreign domestic helpers**

2.21 As at end of August 2015, there were 340 378 FDHs in Hong Kong. Most of them were from the Philippines (53%, 180 363) and Indonesia (45%, 151 659) with the rest from Thailand, India, Sri Lanka, Myanmar, Bangladesh and Pakistan, etc.

2.22 As explained in paragraphs 76 to 80 of the previous report, FDHs continue to enjoy equal rights and benefits, as all local employees, under the labour law of Hong Kong, including the Employment Ordinance (Cap. 57) and Employees' Compensation Ordinance (Cap. 282). Regardless of their race, FDHs and local employees alike are entitled to statutory rights and protection, including entitlements of one rest day per week, statutory holidays, paid annual leave, maternity protection, paternity leave, as well as the right to form and join trade unions etc.

2.23 FDHs, like local employees and other imported workers, have access to the free conciliation services provided by the Labour Department (LD). When there are any suspected cases of labour offences (such as non-payment or underpayment of wages, non-granting of rest day or statutory holidays) by employers of FDHs, the LD will accord the same priority and treatment to the employment claims filed by FDHs as local employees and will prosecute any law-defying employers of FDHs. The employment rights of FDHs will be elaborated in paragraphs 5.28 to 5.36 below.

#### **Illegal immigrants, including those seeking non-refoulement protection**

##### *Refugee Convention not applicable*

2.24 As indicated in paragraph 90 of the previous report, given Hong Kong's unique circumstances, the 1951 United Nations Convention relating to the Status of Refugees (the Refugee Convention) and its 1967 Protocol have never been applied to Hong Kong. There

has been no change to the circumstances that justify a departure from the position of not applying the Refugee Convention to Hong Kong. As such, the HKSAR Government would maintain the policy of not granting asylum to, or determining the refugee status of, asylum seekers.

#### *Non-refoulement claims*

2.25 Foreigners who smuggled into the HKSAR and visitors who overstayed their limit of stay allowed by the ImmD or who were refused entry upon arrival (collectively “illegal immigrants” below) are liable to be removed from the HKSAR under the law. To safeguard immigration control and for public interest, illegal immigrants, regardless of their race, will be removed as soon as practicable.

2.26 Following the decision of the Court of First Instance in *FB v Director of Immigration* [2008] HKCFI 1069, an enhanced administrative screening mechanism was introduced in December 2009 to screen torture claims under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). These enhanced procedures were later codified by the Immigration (Amendment) Ordinance 2012.

2.27 Subsequently, following the Court of Final Appeal (CFA)’s rulings in *Ubamaka Edward Wilson v Secretary for Security* (2012) 15 HKCFAR 743 and *C & Others v Director of Immigration* (2013) 16 HKCFAR 280, the HKSAR Government commenced operating a unified screening mechanism (USM) in March 2014 to screen claims by illegal immigrants resisting removal to another country on all applicable grounds (“non-refoulement claims”), including risk of torture as defined under the Immigration Ordinance (Cap. 115) and consistent with the definition in Article 1 of CAT, risk of torture or cruel, inhuman or degrading treatment or punishment under Article 3 of the Hong Kong Bill of Rights (BOR) as construed by the CFA in *Ubamaka*, and risk of persecution with reference to the non-refoulement principle under Article 33 of the Refugee Convention as decided by the CFA in *C & Others*.

2.28 Procedures of the USM follow the statutory mechanism for torture claims to ensure they meet the high standards of fairness required by law. The mechanism comprises three main steps: (a) claimant to set out the basis of claim by completing a claim form; (b) claimant to attend screening interview with immigration officer to answer questions relating to their claims; and (c) the immigration officer who interviewed the claimant to decide on the claim having regard to all relevant considerations, and to inform the claimant of the decision with reasons in writing.

2.29 Guidelines setting out details of the procedures of USM are published on the ImmD’s departmental website. Translated copies of the guidelines in 15 different languages are available at the ImmD’s office.

2.30 Claimants aggrieved by the ImmD’s decision may appeal to the independent statutory Torture Claims Appeal Board. The Board will consider the facts and circumstances of each case to determine whether or not an oral hearing should be conducted as a matter of fairness. Claimants aggrieved by the ImmD’s and the Board’s decisions may seek judicial remedy through the Courts of the HKSAR.

2.31 Since 2009, publicly-funded legal assistance has been made available to all claimants through the Duty Lawyer Service, which maintains a roster of around 480 barristers and solicitors who have received relevant training on non-refoulement protection.

2.32 Qualified interpretation and translation services are provided to claimants during the screening process. The languages which most claimants require interpretation are Hindi, Urdu, Bengali, Nepali, Tagalog, Indonesian, Vietnamese, Sinhala, Tamil, and French.

2.33 When the USM commenced in March 2014, 6 699 non-refoulement claims were pending screening. Since then, the number of non-refoulement claimants increased sharply. By end of June 2015, the ImmD has determined 2 057 claims (12 claims were substantiated); and 1 534 claims were withdrawn. However, during the same period, the ImmD has received another 6 832 claims (monthly average of 427 claims, comparing to the monthly average of 102 claims from 2010 to 2013), bringing the total number of claims

pending screening to 9 940. Of all the claimants, 70% did not seek to lodge a claim until they were intercepted or arrested by the Police or the ImmD. Overall, claimants had remained in the HKSAR for 13 months on average before lodging a claim.

2.34 The HKSAR Government's estimated expenditure arising from the screening of non-refoulement claims and provision of various support to claimants amounts to \$644 million in the 2015-16 financial year (an increase of 21% from the previous year), and is expected to further increase in view of the influx of claimants. The HKSAR Government will conduct a comprehensive review on the handling of non-refoulement claims to minimise room for possible abuses.

### **Article 3: No racial segregation or apartheid**

3.1 The position remains as explained in paragraph 61 of the initial report. That is, neither apartheid nor any form of racial segregation is practised in the HKSAR, nor would it be tolerated by the people or the HKSAR Government.

#### **Patterns of settlement**

3.2 In paragraphs 106 to 107 of the previous report, it was noted that some ethnic groups were found to be residing in some localities in greater numbers than in others. For example, based on statistics in 2011, the White community settled in a slightly greater number in the Central and Western district, and the Indian and Nepalese communities in the Yau Tsim Mong district. Nevertheless, it has not been observed that a particular district is predominantly inhabited by any ethnic minority group, and there are no marked signs of a trend towards "ghettoization". Ethnic communities continue to co-exist with the local Chinese majority in a generally peaceful and harmonious manner in different districts of the HKSAR.

### **Article 4: No propaganda or organisations which are based on racial superiority**

4.1 The position essentially remains as reported in paragraphs 65 to 70 of the initial report. That is, the HKSAR and its people do not tolerate views of extremist or racist organisations. While the HKSAR Government firmly upholds freedom of opinion and expression, the laws of the HKSAR also contain adequate safeguards and provisions to effectively punish or suppress any racist acts of violence.

4.2 The RDO further reinforces existing legislation and renders it unlawful for a person, by any activity in public, to incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of race. It also prohibits serious vilification which involves the threatening of physical harm or inciting others to threaten physical harm towards another person, or the property or premises of that other person. Serious racial vilification is a criminal offence under section 46 of the RDO, and carries a maximum penalty of a fine of \$100,000 and imprisonment for two years.

4.3 Moreover, section 17B (2) of the Public Order Ordinance (Cap. 245) makes it an offence for any person who in any public place behaves in a noisy or disorderly manner, or uses, or distributes or displays any writing containing threatening, abusive or insulting words, with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be caused. In some situations, such behaviour may also constitute the common law offence of outraging public decency or the offences of obstruction of public places and public nuisance under sections 4(28) and 4A of the Summary Offences Ordinance (Cap. 228).

## **Article 5: Guarantees of rights of everyone without distinction as to race, colour, or national or ethnic origin**

### **Article 5 (a): Equal treatment before tribunals and organs administering justice**

5.1 In Hong Kong, all persons regardless of their race, colour, descent or national or ethnic origin are equal before the law and have equal access to the courts. This is guaranteed by Articles 25 and 35 of the Basic Law and Articles 1, 10 and 22 of the BOR. Furthermore, court interpreters are deployed to courts at all levels, where they interpret for parties who speak different languages.

#### **Court procedures**

5.2 The District Court is responsible for adjudicating claims under the four anti-discrimination ordinances, including those relating to race discrimination under the RDO. To help expedite the adjudication of such claims, the Judiciary has recently completed a review and introduced the necessary legislative amendments in November 2014 to streamline the related court procedures.

5.3 The simplified procedures provide more flexibility for parties to these claims; the new procedures are less technical and parties should find them easier to follow. The changes, supported by the relevant stakeholders, should help save time and costs of the parties concerned.

#### **The availability of legal aid**

5.4 The HKSAR Government's policy objective is to ensure that no person with reasonable grounds for pursuing or defending a legal action is denied access to justice because of a lack of means. The Legal Aid Department provides legal representation to eligible persons in civil or criminal proceedings in Hong Kong. Any person who is involved in court proceedings in the District Court, all levels of courts above District Court or committal proceedings in the Magistrates' Courts may apply for legal aid. Legal aid will be granted regardless of race, colour, descent or national or ethnic origin so long as the applicant is able to satisfy the statutory criteria as to the financial eligibility and the merits for taking or defending the legal proceedings.

#### **Persons in custody**

5.5 The position remains as explained in paragraph 79 of the initial report. Persons in police custody are entitled to be notified of their rights, irrespective of their race, colour, descent or national or ethnic origin. Such rights include, inter alia, the following: the right to be supplied with adequate food, refreshment and drinking water; the right to communicate with friends and relatives; the right to request a friend or relative be notified of their detention; the right to receive medical attention; the right to request a list of solicitors and the right to have a solicitor or barrister present during any interview with the Police, etc. If necessary, interpretation service would be arranged and the statement would be recorded in the language used by the interviewee. These rights are listed on a notice to be served to persons in police custody. Persons in police custody are asked to sign the notice to acknowledge that they have been notified of these rights.

5.6 The CSD provides interpretation services in relation to the handling of legal matters for Persons in Custody (PICs) of ethnic minority origins when necessary.

#### **Decisions made under the Immigration Ordinance**

5.7 The position remains the same as reported in paragraphs 75 to 78 of the initial report.

5.8 To guard against abuse of powers, the ImmD has in place established guidelines and procedures for its frontline staff to handle applications. It also provides training to new recruits and in-service immigration staff to foster the culture of courtesy and impartiality in

enforcing or complying with the law. All staff are trained to treat all members of the public with respect and professionalism irrespective of their race, gender, nationality, age, marital status, pregnancy, family status, religion or disability. General human rights training provided by the ImmD also covers topics of the Basic Law, HKBORO and other applicable laws. In addition, there are established review mechanisms and provisions available to members of the public who are aggrieved by actions or decisions of the ImmD. In exercising immigration control, immigration staff will ensure effective communication with the ethnic minorities. When passengers are refused permission to land in Hong Kong, the notices served on them are available in different languages, so as to ensure that ethnic minority passengers refused permission to land are able to understand the immigration policies relating to them.

### **Article 5 (b): Security of person**

5.9 Staff of the Police and the CSD act in accordance with the laws of Hong Kong, all binding international treaties as applied to Hong Kong and other applicable standards.

5.10 The CSD is committed to promoting racial equality. All PICs receive the same treatment irrespective of their nationality or ethnicity. Measures taken by the CSD to support ethnic minority PICs are set out below:

(a) A booklet entitled “Information for Person in Custody”, available in 27 languages, is given to PICs upon admission to help them understand their rights and the general conditions and requirements in correctional institutions;

(b) A booklet entitled “Multilingual Phrasebook for Emergencies” is available at all hospitals within correctional institutions for use by PICs when needed;

(c) Books in languages other than Chinese or English are available in the libraries of correctional institutions for PICs;

(d) Cantonese learning classes as well as Cantonese self-learning kits are offered to ethnic minority PICs;

(e) The religious freedom of PICs of different ethnicities is respected. Various services including visits, education, counselling and religious worship are provided by chaplains and different religious organisations. The CSD will consult respective Consulates on the religious practices of ethnic minority PICs when necessary; and

(f) Various hobby classes are provided in collaboration with NGOs to facilitate the rehabilitation of ethnic minority PICs.

5.11 As for the Police, to ensure the police officers’ adequate awareness of human rights and the equality principle, as well as sufficient understanding of the anti-torture and anti-discrimination legislation in Hong Kong, coverage over a wide range of topics on human rights, including relevant legislation, are put in place for both new recruits and in-service officers to raise their professional sensitivity in handling persons in police custody.

5.12 Persons detained under police custody, irrespective of their race, colour, descent or national or ethnic origin, receive the same treatment. To ensure the safety of detained persons and others who may come into contact with them, and at the same time provide appropriate safeguards to the rights of detained persons, a Duty Officer is designated to be responsible for the day-to-day management of the Police detention facilities. Inspections are regularly conducted by different ranks of supervisory officers. Other special measures are in place to cater for the religious needs of those under police custody, such as the provision of religious texts and directional sign for praying. Meals and drinks are offered to detained persons. Suitable meals to cater for persons of different ethnic, religious or dietary needs are available.

## **Article 5 (c): Political rights**

### **Elections of the Chief Executive and to the Legislative Council and District Councils**

5.13 The systems for electing the Chief Executive, LegCo Members and District Council Members are explained in paragraphs 12 to 24 of the Common Core Document.

5.14 The laws governing eligibility to stand in the Chief Executive, LegCo and District Council elections make no reference to race, colour, descent or national or ethnic origin.

### **Employment in the civil service**

5.15 As an equal opportunities employer, the HKSAR Government is committed to eliminating all forms of discrimination in employment. Appointments to the civil service are based on the principle of open and fair competition. All candidates in an open recruitment exercise are assessed on the basis of their ability, performance and character having regard to the stipulated entry requirements which are set according to the job requirements of individual civil service grades. Race is not a relevant consideration in the recruitment selection process.

5.16 While some 95% of the HKSAR's population are Chinese, the HKSAR is a cosmopolitan city and a centre of trade, commerce and finance. It is the HKSAR Government's policy to maintain a fully biliterate (Chinese and English) civil service to support the HKSAR's continued development and to ensure effective communication with the general public at the same time. Given the foregoing, it is necessary to specify appropriate English and Chinese language proficiency requirements as part of the entry requirements for different civil service grades. In setting such language proficiency requirements, the job nature and operational requirements of the civil service grades concerned are the prime considerations. The overriding principle is that the language proficiency requirements specified must be relevant to and commensurate with the satisfactory performance of duties.

5.17 Article 99 of the Basic Law provides that, except as provided for in Article 101, public servants must be permanent residents of the HKSAR. No distinction is made on the grounds of race: there are permanent residents who are not ethnic Chinese and non-permanent residents who are ethnic Chinese. Article 101 provides, among others things, that the HKSAR Government may employ foreign nationals as advisers to Government departments and, when required, may recruit qualified candidates from outside the HKSAR to fill professional and technical posts in Government departments. Accordingly, the possession of permanent resident status is a requirement for appointment as civil servants. Where justified (for example, recruitment difficulty, special skills or experience requirement, etc.), exceptions may be made in accordance with the relevant provisions of the Basic Law.

5.18 Some commentators have expressed concern on limited Government job opportunities for ethnic minorities, mainly because of the Chinese language proficiency requirement. In view of this, the Chinese language proficiency requirements and recruitment formats of relevant Government jobs have been reviewed and adjusted while ensuring satisfactory performance of duties. For example, the recruitment test for Police Constables has been modified to require candidates to write English in addition to Chinese for situations simulating police operations. Extra marks will be awarded to candidates who possess foreign/ethnic language skills. In addition, members of ethnic minorities have been engaged as Police Community Liaison Assistants to enhance liaison with ethnic communities. The recruitment format for the CSD's Assistant Officer II has been modified by replacing the Chinese written test with a group interview. Other disciplined services, such as the Government Flying Service and Fire Services Department, are also taking measures to adjust the Chinese language proficiency requirements or recruitment formats.

## **Article 5 (d): Civil rights**

### **(i) Freedom of movement**

5.19 The position is as explained in paragraph 91 of the initial report. That is, freedom of movement is enshrined in Article 31 of the Basic Law.

### **(ii) Freedom to leave the territory**

5.20 The position is as explained in paragraph 101 of the initial report. That is, Article 31 of the Basic Law provides that Hong Kong residents shall have freedom to travel and to enter or leave the HKSAR.

### **(iii) Right to residency/right of abode**

5.21 As explained in paragraph 102 of the initial report, Article 24 of the Basic Law prescribes the categories of persons who are permanent residents of the HKSAR and therefore qualified to obtain, in accordance with the laws of the HKSAR, permanent identity cards that state their right of abode. The interpretation of Articles 22 (4) and 24 (2) (3) of the Basic Law as adopted by the Standing Committee of the Ninth National People's Congress at its Tenth Session on 26 June 1999 and the judgments of the CFA in the related litigation have established a firm legal basis for the HKSAR Government to deal with cases concerning the right of abode.

### **(iv) Right to marriage**

5.22 The position remains the same as reported in paragraph 111 of the initial report. That is, Article 19 of the BOR provides, *inter alia*, that the right of men and women of marriageable age to marry and to found a family shall be recognised. No marriage shall be entered into without the free and full consent of the intending spouses. Freedom of marriage is further protected under Article 37 of the Basic Law. The right is without distinction as to race, colour, descent or national or ethnic origin. Marriage between persons of different ethnic origin is common and well accepted in the HKSAR.

### **(v) and (vi) Right to own property and inherit**

5.23 The position remains the same as reported in paragraph 115 of the initial report. That is, Article 105 of the Basic Law provides that the HKSAR shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. The rights in Article 5 (d) (v) and (vi) of the Convention are also secured by both statute and common law. These rights — and the laws that enforce them — are applied without distinction as to race, colour, descent or national or ethnic origin.

### **(vii) Freedom of thought, conscience and religion**

5.24 The position remains the same as reported in paragraph 116 of the initial report. That is, Article 32 of the Basic Law provides that Hong Kong residents shall have freedom of conscience. Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public. Freedom of thought, conscience and religion is also guaranteed by Article 15 of the BOR. Pursuant to Article 1 of the BOR, these freedoms shall be enjoyed without distinction of any kind, such as race, colour, descent or national or ethnic origin.

### **(viii) Freedom of expression**

5.25 The position remains the same as reported in paragraphs 119 to 120 of the initial report. That is, freedom of expression is enshrined in Article 27 of the Basic Law, which states that Hong Kong residents shall have freedom of speech, of the press and of publication. Freedom of expression is also safeguarded by Article 16 of the BOR. Pursuant to Article 1 of the BOR, these freedoms shall be enjoyed without distinction of any kind, such as race, colour, descent or national or ethnic origin.



**(ix) Freedom of peaceful assembly and association**

5.26 The position remains as explained in paragraph 121 of the initial report. The freedom or right to peaceful assembly and to peaceful public procession are fundamental rights guaranteed in the Basic Law and the BOR. The HKSAR Government remains firmly committed to the protection of these fundamental rights and freedoms of Hong Kong people, without distinction as to race, colour, descent or national or ethnic origin.

5.27 To assist frontline officers in exercising their discretion to regulate public meetings and processions, the Police have widely promulgated the “Guidelines on the approach to the Public Order Ordinance in relation to public meetings and public processions” among frontline Police officers. These Guidelines aim to further explain the meaning of important terms and provide additional guidance on the terms used on the limits to Police discretion. They have also been made available on the Police’s website and Divisional Police Report Rooms for public inspection.

**Article 5 (e): Economic, social and cultural rights****(i) Employment rights***Foreign domestic helpers*

5.28 The Committee raised concerns on certain aspects of the working conditions and work requirements applicable to FDHs in paragraph 30 of its Concluding Observations. Under the Employment Ordinance, FDHs shall enjoy the same entitlements of rest day and statutory holidays like local workers. Non-granting of rest day and statutory holidays by employers are offences, liable to a maximum penalty of \$50,000 upon conviction. FDHs who are abused by their employers should report their cases promptly to the authorities so that appropriate follow-up actions could be taken.

5.29 In addition to the rights and protection as provided under the Employment Ordinance and Employees’ Compensation Ordinance, further legal protection is afforded to FDHs through the Government-prescribed Standard Employment Contract (SEC), under which FDHs enjoy wage protection through the Minimum Allowable Wage (MAW), currently at \$4,210 and benefits including free accommodation, free food, free medical treatment and passages to/from their home countries etc. by their employers. The MAW is reviewed regularly, during which the HKSAR Government will take into account the overall economic performance as reflected in the basket of economic indicators. Arising from such regular reviews, the MAW has been increased by nearly 18% from the 2008-level (which was \$3,580) to the present level.

5.30 Under the Employment Ordinance, an employer who underpays wages commits an offence and is liable to a maximum fine of \$350,000 and three years’ imprisonment upon conviction. In addition, any person convicted of making false representation to an Immigration Officer is liable to a maximum fine of \$150,000 and imprisonment for 14 years under the Immigration Ordinance. As for other requirements such as the FDH must work and reside in the employers’ residence and perform only the domestic duties as provided in the Schedule of Accommodation and Domestic Duties etc., employers and FDHs are respectively required to give an undertaking to the ImmD when making the visa application. If an employer has breached his/her undertaking, the ImmD will take his/her conduct into consideration, and his/her future application to employ FDHs may be refused.

5.31 Since May 2011, the HKSAR has been implementing Statutory Minimum Wage (SMW) to forestall excessively low wages but without unduly jeopardising the labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs. Like other labour legislation in the HKSAR, the Minimum Wage Ordinance (Cap. 608) does not make a distinction on the ground of employees’ race, colour, descent or national or ethnic origin.

5.32 All live-in domestic workers, irrespective of their gender and race, and whether they are local or migrant workers, are exempted from the Minimum Wage Ordinance. In arriving at the exemption which has been the consensus when legislating for SMW, the HKSAR

Government has considered all relevant circumstances and views of stakeholders. One of the major considerations for the exemption is the distinctive working pattern of live-in domestic workers, i.e., residing in the employer's home, working and living in the same place, which renders calculating and recording of working hours difficult, when SMW is set on an hourly basis. The exemption of live-in domestic workers also reflects the provision of in-kind benefits arising from their living in the household of their employers free of charge. Such in-kind benefits include provision of free accommodation and usually free food by the employers, as well as savings in transport cost.

#### *Two-week rule*

5.33 In paragraph 30 of the previous Concluding Observations, the Committee expressed concern regarding the "two-week rule" whereby FDHs have to leave Hong Kong within two weeks upon termination of contract, as well as the live-in requirement. As explained in paragraphs 27 to 33 of the initial report, the "two-week rule" on FDHs is implemented to prevent abuse and to deter FDHs from overstaying and taking up unauthorised work. The same rule applies equally to other migrant workers, such as workers imported under the Supplementary Labour Scheme, irrespective of their countries of origin. The rule does not preclude the FDHs from working in Hong Kong again after returning to their places of origin and does not lead to additional expenses on the part of the FDHs as the passages are paid by their employers. Under exceptional circumstances, such as where the employment contract is terminated due to external transfer, emigration, death or financial situation of the employer, or where there is evidence that the FDH had been abused or exploited, the ImmD may allow the FDHs concerned to change employer without requiring them to return to their home countries before commencing new contracts in Hong Kong. Moreover, an FDH may, if necessary, apply for extension of stay from the ImmD to facilitate him/her in pursuing claims in court. If the employers are found to have breached the terms of the SEC or have exploited the FDH which in turn resulted in the early termination of the employment contract, their future application for FDH will not be approved.

#### *Live-in requirement*

5.34 All FDHs are required to work and reside in their employers' residences as stated in the SEC.

5.35 The importation of FDHs to Hong Kong has been practised since 1970s in order to meet the acute and long-standing shortage of full-time live-in domestic helpers in the local labour market. There is a continuing and increasing need for full-time live-in domestic helpers, particularly so as the Hong Kong population ages and there are increasing numbers of elderly persons engaging FDHs. Any change to the "live-in requirement" that FDHs must reside in employers' residences will go against the rationale for importing FDHs and the fundamental policy that local employees (including local domestic helpers) should enjoy priority in employment. The aforementioned overriding policy considerations aside, the HKSAR Government also needs to take into account the employers' affordability in providing separate accommodation to their FDHs, the additional medical costs, insurance and other risks by allowing FDHs to live out as well as issues such as the additional pressure on private housing and public transportation, etc. The HKSAR Government considers it necessary to retain the "live-in requirement". It is emphasised that the "live-in requirement" is a work requirement and it equally applies to those local domestic helpers who work for families/persons requiring full-time domestic live-in helpers.

#### *Employees Retraining Levy*

5.36 The Employees Retraining Levy was imposed on 1 October 2003 by the HKSAR Government on employers of FDHs as a contribution of those employers to the cost of training or retraining of local employees. To ease the financial burden on FDH families, the HKSAR Government suspended the collection of the Levy from FDH employers from 1 August 2008 to 31 July 2013, following which the Levy on FDH employers was abolished.

*Imported workers*

5.37 As at 31 May 2015, there were 3 376 persons working in Hong Kong under the Supplementary Labour Scheme, the details of which were explained in paragraph 131 of the initial report. Their employment contracts last for at most two years. They are informed of their legal and contractual rights and benefits through pamphlets, briefings and a telephone enquiry service with pre-recorded messages in English, Cantonese and Putonghua.<sup>2</sup> Their employers are required to pay the imported workers wages at a rate comparable to local workers in similar positions, to provide them with free medical treatment, subsidised accommodation of a prescribed standard and return passage.

*Legal protections*

5.38 The position remains broadly the same as explained in paragraph 133 of the initial report. In the event of disputes relating to employment rights and benefits, the LD provides free conciliation services, irrespective of the race of the employees (and employers). The LD will continue to ensure that nobody would be denied access to its services due to language difficulties. In this connection, the LD has commissioned different modes of interpretation services for provision of interpretation services during conciliation meetings, criminal investigation and prosecution purposes when necessary to facilitate those who could not communicate in Chinese and English. Past experience shows that imported workers and FDHs who could not communicate in Chinese and English were often accompanied by friends or relatives speaking either language when making enquiries, filing claims or attending conciliation meetings. This however does not detract from the LD's commitment to ensure that the parties concerned will not be denied conciliation services owing to their race or language difficulties.

5.39 In 2010, the Employment Ordinance was amended to introduce a new criminal offence, whereby an employer who wilfully and without reasonable excuse fails to pay a sum comprising wages and statutory entitlements under the Employment Ordinance as awarded by the Labour Tribunal or Minor Employment Claims Adjudication Board within 14 days after it becomes due is liable to prosecution. The maximum penalty is a fine of \$350,000 and imprisonment for three years. This measure, applicable to both local and imported workers (including FDHs), serves to enhance the deterrent effect and strengthen the protection of employees' rights and benefits.

*Statutory Paternity Leave*

5.40 The Employment Ordinance was amended in 2014 to provide for statutory paternity leave with effect from 27 February 2015. Male employees are entitled to three days' paternity leave to be taken consecutively or separately for each confinement of their spouse/partner if they fulfil other requirements as stipulated in the law. They may take paternity leave at any time during the period from four weeks before the expected date of delivery of the child to 10 weeks beginning on the actual date of delivery of the child. Employees who are qualified for paternity leave pay may receive a daily rate of four-fifths of their average wages as paternity leave pay. This statutory benefit is applicable to both local and imported workers, including FDHs, irrespective of their race.

*Promotion and publicity of employment rights and benefits*

5.41 In addition to the initiatives stated in paragraphs 153 and 154 of the previous report, other publicity and promotional measures taken to remind FDHs of their legal and contractual rights include placing advertisements in local Filipino and Indonesian newspapers, staging roving exhibitions territory-wide, and through the assistance of respective consulates organising briefing sessions for newly-arrived FDHs.

5.42 Since 2014, the LD has been intensifying the publicity and promotional efforts. In addition to the on-going efforts which focus on the employment rights and benefits of FDHs, the LD has included in the publicity materials messages on how FDHs should deal with situations involving intrusion of their personal safety and confiscation of their identity

<sup>2</sup> Out of the some 3 000 imported workers in Hong Kong, over 95% came from Mainland China.

documents by third parties, as well as the channels for them to seek redress from the HKSAR Government. Advertisements containing these messages are regularly placed at local Filipino and Indonesian newspapers. A handy card in the mother languages of FDHs on their employment rights and complaint channels is produced and widely distributed to FDHs to enhance their awareness in this regard.

5.43 The LD has also stepped up collaboration with FDHs' home countries in promoting and safeguarding the employment rights and benefits of FDHs in Hong Kong. Since 2014, an inter-departmental regular liaison mechanism with both the Indonesian and Philippines Consulates-General (CGs) has been set up respectively to discuss matters requiring mutual attention concerning FDHs, exchange information as well as co-ordinate promotional efforts. The LD has also been joining the briefings organised by the Indonesian CG and the Philippines CG for newly-arrived FDHs starting from June 2014 and the major social/cultural events organised by CGs for their nationals in Hong Kong to provide FDHs with information on their employment rights and channels for seeking redress while working in Hong Kong. This has continued to receive positive feedback from FDHs.

*Employment services provided to ethnic minorities*

5.44 The LD provides a wide range of comprehensive and free employment services to all job seekers, regardless of their race, colour, descent or national or ethnic origin. All job centres of the LD offer employment services in both Chinese and English. Interpretation services will be arranged for job seekers who do not speak Chinese or English.

5.45 In addition to the LD's employment services and facilities available for job seekers in general, special counters are set up in all the job centres to provide ethnic minority job seekers with job referral services. Resource corners are also set up in the job centres and tailor-made employment briefings are organised regularly to provide employment information to help them better understand the latest situation of local labour market and improve job search skills.

5.46 Ethnic minority job seekers may also meet the employment advisors in job centres to obtain job search advice and information on training/retraining courses, and/or to receive career aptitude assessment as appropriate. Those who have difficulties finding jobs are encouraged to participate in various employment programmes to enhance their employability. The LD will continue to canvass suitable vacancies and organise large-scale and district-based inclusive job fairs to help the ethnic minorities find work. In other words, ethnic minority job seekers are able to benefit from the same employment services available to local job seekers, while there are also dedicated job fairs organised by the LD for ethnic minorities.

5.47 Furthermore, to strengthen the employment services for ethnic minorities, the LD launched a pilot "Employment Services Ambassador Programme for Ethnic Minorities" in 2014. The trainees of the Youth Employment and Training Programme<sup>3</sup> who can communicate in ethnic minority languages are employed as employment services ambassadors to serve job seekers in the LD's job centres and job fairs on the one hand while undergoing on-the-job training themselves on the other to enhance their employability.

5.48 In addition, with a view to assisting the ethnic minorities understand their statutory employment rights and protection, the LD produces publications in the languages commonly used by the ethnic minorities<sup>4</sup> for distribution free of charge through different locations to promote major provisions of the Employment Ordinance. The electronic versions of these publications have been uploaded to the LD's Homepage to facilitate public viewing.

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<sup>3</sup> The Youth Employment and Training Programme is implemented by the LD to provide comprehensive pre-employment and on-the-job training for young school leavers aged 15 to 24 with educational attainment at sub-degree or below level.

<sup>4</sup> These languages include Tagalog, Hindi, Indonesian, Thai, Sinhala, Nepali and Urdu in addition to Chinese and English.

**(ii) Right to form and join trade unions**

5.49 The position remains the same as reported in paragraph 162 of the previous report. That is, the right to form and join trade unions is guaranteed by Article 27 of the Basic Law and Article 18 of the BOR. Some registered trade unions specifically represent the rights of overseas workers, such as Filipino Migrant Workers' Union, Indonesian Migrant Workers Union and the Progressive Labor Union of Domestic Workers — Hong Kong.

**(iii) Right to housing**

5.50 The objective of the HKSAR Government's housing policy is to provide public rental housing (PRH) to low-income families who are unable to afford private rental flats. Eligibility for PRH is assessed by making reference to the applicant's household income, assets, property ownership, and residence period in Hong Kong,<sup>5</sup> without distinction as to race, colour, descent or national or ethnic origin.

*Housing needs of new arrivals*

5.51 All applicants for PRH, irrespective of their race, colour, descent or national or ethnic origin, are subject to the same set of eligibility criteria. One of the criteria is that at least 50% of an applicant's household members included in the application must have lived in Hong Kong for seven years<sup>6</sup> and are still living in Hong Kong at the time of flat allocation. This residence requirement had already been relaxed several times since its introduction in 1979. Since PRH are precious social resources heavily subsidised by public expenditure, it is considered fair and reasonable to maintain the current residence rule. The current system already provides the necessary flexibility to people with urgent and genuine housing needs whereby they can have access to PRH through compassionate rehousing.<sup>7</sup>

*Measures to facilitate ethnic minorities to apply for PRH*

5.52 Information on PRH application, written in six ethnic minority languages commonly used in Hong Kong, can be found in the website of the Housing Department (HD). In addition, the HKSAR Government is funding non-profit-making organisations to offer interpretation services to ethnic minorities. When the HD issues notification letters to ethnic minority applicants, it will attach an information note, written in ethnic minority languages commonly used in Hong Kong, to inform applicants of translation/interpretation services available at the support service centre run by the non-profit-making organisations. Such information can also be easily accessed by the public through the HD's website.

5.53 Every PRH applicant needs to undergo a detailed eligibility vetting interview conducted by the HD. To facilitate ethnic minority applicants in attending the interview, upon their requests made before the interviews, the HD will arrange for professional interpreters to provide translation services during the interviews. In case an applicant has not made prior request but need such service at the time of the interview, the HD will contact the relevant support service centre to see if interpretation service can be arranged via webcam. Training has been provided to enhance staff's understanding of the RDO and related guidelines, and to promote their racial sensitivity so as to facilitate provision of services to the ethnic minorities.

<sup>5</sup> A PRH applicant and all his/her family members must be residing in Hong Kong and have the right to land in Hong Kong without being subject to any conditions of stay (except for conditions concerning the limit of stay).

<sup>6</sup> All children under the age of 18 are deemed to have fulfilled the seven-year requirement if they meet one of the following conditions:

(a) At least one of their parents has lived in Hong Kong for seven years or more; or

(b) The children have established Hong Kong birth status as a permanent resident.

<sup>7</sup> Compassionate rehousing is a form of housing assistance, which aims at providing assistance to individuals and families who have genuine and imminent housing problems on social or medical grounds which cannot be solved by themselves. The Social Welfare Department is responsible for recommending eligible applicants to the HD for allocation of PRH unit.

**(iv) Right to receive medical care and social welfare**

5.54 The right to receive medical care and social welfare is enjoyed without distinction as to race, colour, descent or national or ethnic origin. Article 36 of the Basic Law provides that Hong Kong residents shall have the right to social welfare in accordance with law. Article 145 further provides that, on the basis of the previous social welfare system, the HKSAR Government shall formulate policies on the development and improvement of this system “in the light of the economic conditions and social needs”.

5.55 The HKSAR Government’s social security policy is to meet the basic and special needs of people in Hong Kong. These include people such as the financially vulnerable, the elderly, and the severely disabled. All local residents enjoy the right to the non-contributory social security system irrespective of their race, colour, descent or national or ethnic origin.

5.56 Further to paragraphs 167 to 169 of the previous report, the residence requirement under the Comprehensive Social Security Assistance (CSSA) Scheme was adjusted from “seven-year residence requirement” to “one-year residence requirement” on 17 December 2013. Applicants, irrespective of their race, can receive CSSA once they pass the residence rule and assets and income tests.

5.57 The Hong Kong Poverty Situation Report on Ethnic Minorities 2014 released by the HKSAR Government in December 2015 showed that, among the ethnic groups in the HKSAR, the poverty rate of South Asians was higher and that South Asian households with children faced greater poverty risk. After taking into account recurrent cash policy interventions such as CSSA, the poverty rate of South Asian households with children in 2014 was reduced significantly by 17.3 percentage points from 48.1% to 30.8%. Yet this was still higher than the 16.2% post-intervention poverty rate for the overall households with children in the HKSAR. While the Low-income Working Family Allowance to be introduced in May 2016 as well as the education and training measures covered in the Report are expected to lift more South Asian households with children out of poverty, the Special Needs Groups Task Force under the Commission on Poverty is considering what more could be done to better address the poverty problem of South Asians in the HKSAR.

5.58 In order to ensure that the needy persons can have access to the relevant information through sufficient channels, the HKSAR Government has all along emphasised the importance of promoting public knowledge of the social security system. Apart from Chinese and English versions, information leaflets on major social security schemes are also available in other languages including Hindi, Indonesian, Nepali, Tagalog, Thai and Urdu.

5.59 In providing social services for ethnic minorities, the HKSAR Government seeks to facilitate their integration into the local community. To this end, the HKSAR Government encourages ethnic minorities in need to make use of the support provided by mainstream services, including family and child welfare services, youth services, medical social services, etc. For example, based on district needs, Integrated Family Service Centres or Integrated Services Centres or Integrated Children and Youth Services Centres organise various groups and programmes to enhance ethnic minorities’ understanding of the local community they reside in. Those activities will also strengthen their social participation and provide them with more integration opportunities with the local community.

5.60 As regards access to medical care, it is a well-established policy of the HKSAR that no one should be prevented from obtaining adequate medical treatment due to a lack of means. All persons who hold valid Hong Kong identity cards have access — at very low cost — to public health services. Persons who do not hold valid Hong Kong identity cards also have access to those services although they will be charged at higher rates. It is the HKSAR Government’s policy to promote and protect the health of the community and to ensure that public healthcare services are available to all members of the public regardless of their race, colour, descent or national or ethnic origin. Specific measures have been put in place to facilitate ethnic minorities to access the public healthcare services. Scheduled/non-scheduled interpretation services are available in public hospitals/clinics under the management of the Hospital Authority and in the Department of Health’s health centres/clinics. To facilitate communication with the ethnic minorities in public hospitals/clinics, the Hospital Authority has provided its frontline staff with response cue

cards, information sheets of common diseases and consent forms in a number of ethnic minority languages to enhance communication. While the health education resources produced by the Department of Health are generally in Chinese and English, information in some minority languages is also provided for a number of selected health topics and the Department's services.

**(v) Right to education and training**

5.61 As explained in paragraph 151 of the initial report, these rights are enjoyed without distinction as to race, colour, descent or national or ethnic origin.

5.62 The issue of education for non-Chinese speaking children was discussed in paragraphs 152 to 153 of the initial report. The updated position of the relevant issues of concern is as follows:

*Securing school places*

5.63 The position remains the same as stated in paragraph 175 of the previous report.

*Opportunities to learn Chinese and support services to non-Chinese speaking children*

5.64 All children, regardless of their race, are eligible to study in public sector schools provided that they are either Hong Kong permanent residents or that their travel documents contain an appropriate endorsement on their conditions of stay in Hong Kong. The HKSAR Government is committed to encouraging and supporting the integration of NCS students (notably ethnic minorities and/or NCS immigrants) into the community, including facilitating their early adaptation to the local education system and mastery of the Chinese language.

5.65 At paragraph 31 of the previous Concluding Observations, the Committee expressed concern that no official education policy for teaching Chinese as a second language for NCS students with an immigrant background in Hong Kong has been adopted, and the Committee recommended that a policy on Chinese teaching for NCS students from immigrant background be developed in consultation with teachers as well as the communities concerned, and efforts to improve the quality of Chinese language education for immigrant children should be intensified.

5.66 In the 2014/15 school year, the Education Bureau (EDB) implemented the "Chinese Language Curriculum Second Language Learning Framework" ("Learning Framework") in primary and secondary schools to help NCS students overcome the difficulties of learning Chinese as a second language with a view to facilitating their effective learning of Chinese and enabling them to bridge over to mainstream Chinese Language classes in gaining requisite qualifications for admission to post-secondary and tertiary institutions. Through a series of teacher professional development programmes launched before the commencement of the 2014/15 school year, teachers (including principals, vice-principals, curriculum leaders, Chinese Language panel heads and teachers) of primary and secondary schools admitting NCS students have grasped the strategies for the implementation of the "Learning Framework", the "Chinese Language Assessment Tools" to be used in conjunction with the "Learning Framework", and the curriculum planning tools for the "Learning Framework". Details of the support measures put in place since the 2006/07 school year with enhancement starting from the 2014/15 school year are set out below:

*Chinese language curriculum*

(a) ***Supplementary guide on the teaching of Chinese to NCS students:*** A supplementary guide was developed in 2008 under the central Chinese Language curriculum framework. It provides advice on the selection of key learning targets and objectives related to different strands, and principles of selecting relevant materials and contexts for the different needs of students. It is supported by examples based on the experience of learning and teaching of Chinese Language to NCS students in local schools.

(b) ***Chinese Language Curriculum Second Language Learning Framework:*** The "Learning Framework" provides a systematic set of learning targets, learning

objectives and expected learning outcomes at different learning stages according to the curriculum, and serves as a reference for evaluation of learning effectiveness, which complements the aforementioned supplementary guide;

(c) **Applied Learning Chinese (for NCS students) subject:** To cater for the diverse expectations, needs and aspirations of NCS students, starting from the 2014/15 school year, an Applied Learning Chinese (for NCS students) subject is introduced by phases at senior secondary level to offer an additional channel for NCS students to acquire an alternative recognised qualification to facilitate their academic and career pursuits;

*Professional and funding support*

(d) **Revised mode of support:** The centralised approach of providing a special grant and intensive on-site professional support to enhance the learning and teaching of Chinese to NCS students for a certain number of schools, known as the so-called “designated schools” (the label of which is a misnomer), was revised in the 2013/14 school year. Instead, all schools admitting 10 or more NCS students are provided with additional funding, the provision of which is further enhanced starting from the 2014/15 school year to facilitate schools’ implementation of the “Learning Framework” and creation of an inclusive learning environment in schools. In tandem, enhanced school-based professional support is provided to schools through diversified modes, including intensive on-site support through regular visits by professional officers or experts from local universities to conduct collaborative lesson planning with teachers to develop the school-based Chinese Language curriculum, learning and teaching strategies, school-based teaching resources/materials, learning activities and assessment designs, etc.;

(e) **Training for Chinese Language teachers:** In addition to organising professional development programmes for teachers, the HKSAR Government has, since the 2006/07 school year, commissioned tertiary institutions to run training programmes for Chinese Language teachers to enhance their professional capability in teaching Chinese as a second language;

(f) **School-Based Support Scheme Grant:** public-sector schools with intake of newly-arrived NCS children (including newly-arrived ethnic minority children) are provided with the Grant to flexibly arrange school-based programmes such as orientation, intensive and/or remedial teaching, and personal development training to meet the learning and adaptation needs of the newly arrived NCS students;

(g) **Flexible deployment of resources:** to optimise the effective use of resources, schools admitting NCS students are encouraged to flexibly deploy the different resources currently provided for meeting students’ diverse learning needs;

*Other complementary support measures*

(h) **Summer Bridging Programmes:** Schools with NCS students admitted to Primary 1 are provided with funds to run four-week Summer Bridging Programmes to familiarise Primary 1 entrants with the school environment and to raise their interest in the learning of Chinese. Starting from summer 2007, these Programmes have been extended to cover NCS students proceeding to Primary 2, Primary 3 and Primary 4 to help them consolidate what they have learned in Key Learning Stage 1. The Programmes were further refined in 2013 to encourage NCS parents to accompany their children with a view to enhancing their exposure to, and use of, Chinese and support for their children;

(i) **Chinese Language Learning Support Centres:** A local university has been commissioned to run Chinese Language Learning Support Centres, which support NCS students who have a late start in learning the Chinese language or have not been given full opportunities to learn the local Chinese Language curriculum, by offering remedial programmes for these students after school hours or during holidays. The Centres also develop related teaching resources and organise workshops and seminars for Chinese Language teachers;



*Articulation to multiple pathways*

(j) **Alternative qualifications in Chinese:** Internationally recognised Chinese Language qualifications including the General Certificate of Secondary Education, International General Certificate of Secondary Education and General Certificate of Education are accepted as alternative Chinese qualifications for NCS students in consideration for admission to local universities and post-secondary institutions as well as appointment to the civil service. Eligible NCS students are subsidised for sitting the aforementioned internationally recognised Chinese examinations. Needy students may be granted half or full remission of the subsidised examination fee;

(k) **Vocational Chinese and vocational training:** To enhance the employability of NCS school leavers, local post-secondary institutions have been commissioned to develop and operate vocational Chinese courses which are expected to be launched in the first quarter of 2016;

*Research studies*

(l) **Studies on the integration of ethnic minority students:** A three-year longitudinal study to track the development and adaptation of ethnic minority students was completed in 2008. Another study on good practices in primary and secondary schools to support NCS students was completed in 2010;

(m) **Evaluation of the support measures:** Alongside the implementation of the “Learning Framework”, a research framework has been drawn up according to the advice of research and language experts to evaluate the effectiveness of various support measures for NCS students to ensure the quality of the support measures and refine individual measures where appropriate. Data collection and associated research work under the research framework have started upon completion of the 2014/15 school year when initial data on the performance of NCS students and feedback on the impact of various support measures are available;

*Communication with NCS parents*

(n) **Promotion of early integration:** NCS students’ early start in learning Chinese is critical to their adaptation to mainstream curriculum and integration into the community, the earlier the better. NCS parents are encouraged to send their children to local kindergartens. Enhanced school-based professional support is provided to kindergartens admitting NCS children. Besides, in collaboration with NGOs, district-based programmes have been organised since the 2012/13 school year to motivate NCS children to learn Chinese through fun activities such as games and creative art, etc.;

(o) **Dissemination of information:** To enhance reaching-out of the educational services to the NCS parents and students, a Parent Information Package and leaflets outlining the school system, major education policies and the related education services have been published and updated as necessary. The Package and notes on kindergarten education, school places allocation systems and support measures for NCS students are published in English and Chinese and translated into the major ethnic minority languages for NCS parents’ easy reference. Dedicated briefing sessions with simultaneous interpretation services will continue to be organised for NCS parents. Besides, the EDB has set up a dedicated website and a hotline with interpretation services for NCS parents/students.

5.67 With the implementation of the “Learning Framework” and the Applied Learning Chinese subject, NCS students’ motivation to learn Chinese and the effectiveness of their learning have improved. More schools are accepting NCS students and more parents of NCS students are willing to enrol their children in a wider range of schools. Overall speaking, the outcomes of the package of initiatives are positive thus far. The EDB will continue to monitor progress and refine the implementation details to suit the prevailing needs of NCS students.

*Diversity in the education sector*

5.68 Educational alternatives for students with different preferences continue to exist, both within and outside the public sector. For example, some public sector schools use English as the medium of instruction. Some schools also offer the opportunity to learn other languages including those of Hong Kong's major ethnic minority groups such as Hindi or Urdu. Additionally, some schools, mainly privately-run, offer non-local curricula at the primary and secondary levels. Subject to the HKSAR Government's prevailing policy, the availability of resources and the applicable vetting mechanism, some of these private schools may be allocated vacant school premises or greenfield sites, and/or receive one-off capital assistance or interest free loan from the HKSAR Government for school building. At present, some 65 such schools offer a range of curricula, including those of the USA, Australia, Canada, the United Kingdom, France, Germany, Japan, Korea, Singapore and so forth.

*Access to tertiary education and vocational and professional education and training*

5.69 The position remains the same as elaborated in paragraphs 180 to 182 of the previous report.

5.70 The Vocational Training Council offers vocational and professional education and training programmes and the Employees Retraining Board offers retraining services to eligible persons, irrespective of race, colour, descent or national or ethnic origin. In particular, the Board provides dedicated training courses delivered in English since mid-2007 to meet the aspirations and training needs of NCS trainees. The courses straddle across eight different industry categories (covering property management and security, beauty therapy, hotel, business, catering, social services, tourism and healthcare services). Special measures and services are also provided to facilitate and support their training, for example, in-class interpretation services by teaching assistants who can speak English and ethnic minority languages are arranged as necessary.

**(vi) Right to participate in cultural activities**

5.71 The position remains the same as explained in paragraph 159 of the initial report. The right to participate in cultural activities is guaranteed by Article 34 of the Basic Law and Article 15 of the International Covenant on Economic, Social and Cultural Rights. The right is enjoyed without restriction as to race, colour, descent or national or ethnic origin.

**Article 5 (f): Right of access to services**

5.72 The position remains the same as explained in paragraph 160 of the initial report. That is, by virtue of Article 22 of the BOR all laws that regulate the right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks, must not be discriminatory either in their terms or in their practical application. Additional safeguards have also been provided by the RDO to ensure the right of access to services by ethnic minorities.

**Article 6: Provision of effective protection and remedies against any acts of racial discrimination****Equal Opportunities Commission**

6.1 Under the RDO, a person may lodge a complaint with the EOC if he/she encounters discrimination on the ground of race in specified areas, including employment, education, the provision of goods, facilities or services and the disposal or management of premises, or other forms of unlawful acts specified in the Ordinance. These complaints can be made by an aggrieved person or his/her representative. For aggrieved persons who cannot speak and write Chinese or English, interpretation services in other languages would be provided upon request to assist them to lodge complaints.

6.2 From July 2009 to June 2015, a total of 335 complaint cases and 2 717 enquiries under the RDO were received by the EOC. Among the complaint cases, 89 were employment-related, 12 were related to education issues, 185 concerned the provision of goods, services and facilities, and 49 were of other natures.

6.3 The EOC handles complaints by way of investigation and conciliation. The complaint handling mechanism of the EOC provides a free and alternative platform for people to resolve their cases outside the court system. The primary objective of the EOC is to encourage a settlement between the complainant and the respondent by way of conciliation. The advantage of conciliation is its relative speed in comparison with other forms of redress. Conciliation is a completely voluntary process, and parties cannot be compelled to settle a complaint. The settlement terms are negotiable between the parties. From the cases settled in the past, some examples of the settlement terms were monetary compensation, different forms of apology, change of policy, provision of training on equal opportunities, etc.

6.4 If a complaint is not successfully conciliated during the EOC's complaint handling process, the complainant has the right to apply to the EOC for legal assistance. Applications for legal assistance are decided by the EOC's Legal and Complaints Committee and each application is considered independently. Legal assistance by the EOC may include initial legal advice and legal representation for the assisted person in court. A total of 10 legal applications have been received by the EOC in relation to the RDO, among which assistance was granted to three assisted persons.

6.5 Under the RDO, complainants may also institute civil proceedings in the District Court, which is elaborated further at paragraph 6.9 below. This can be done in addition, or as an alternative, to lodging a complaint with the EOC.

### **The Ombudsman**

6.6 The position remains the same as reported in paragraph 192 of the previous report. The Ombudsman is empowered to investigate, in accordance with The Ombudsman Ordinance (Cap. 397), complaints of grievances arising from maladministration in the public sector including inefficiency, bad or improper administration, unreasonable conduct (such as delay, discourtesy and lack of consideration for the affected person) and abuse of power or authority (such as unreasonable, unjust, oppressive or improperly discriminatory actions). Where, after such investigations, either by The Ombudsman or by the HKSAR Government itself, misconduct or malpractice is established, the HKSAR Government will take appropriate remedial and corrective measures, which may include disciplinary action against the officers concerned.

### **Legal Aid Department**

6.7 The Legal Aid Department has taken effective measures to ensure that ethnic minorities have equal access to its services and timely assistance is rendered to applicants/aided persons who are of ethnic minority origins when delivering legal aid services to them. The Department's measures include:

- (a) Publishing and distributing a series of leaflets on legal aid services in 10 ethnic minority languages (i.e., Bengali, Hindi, Nepali, Indonesian, Tagalog, Thai, Urdu, Vietnamese, Punjabi and Tamil);
- (b) Arranging free interpretation service for applicants who do not speak English or Chinese to help them with the application process;
- (c) Displaying a poster in the aforesaid 10 languages at the Department's offices to promote and alert applicants of the Department's free interpretation service;
- (d) Uploading the abovementioned leaflets and poster to the Department's website and allowing free download to enhance public's access, as well as making these leaflets available at relevant consulate offices, the Judiciary's Resource Centre for Unrepresented Litigants, the Office of the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures, police stations, the public enquiry service centres of the

HAD, the premises of the LD, the CSD, the Social Welfare Department and public hospitals;

(e) Notifying the Judiciary to arrange free service of an interpreter at legal aid appeal hearings for applicants/appellants who do not speak English or Chinese; and

(f) Paying interpretation and translation expenses reasonably incurred by assigned lawyers for the proper conduct of the case in advance as litigation expenses when legal aid is granted to persons of ethnic minority origins.

### **The court system**

6.8 The position remains broadly as explained in paragraphs 162 to 164 of the initial report. The rights and freedoms enjoyed by Hong Kong residents under the Basic Law include the right to equality before the law under Article 25. Article 22 of the BOR also guarantees the right to equality before the law and equal protection of the law. Any acts of racial discrimination by the HKSAR Government or public authorities may infringe the Basic Law and the HKBORO, and the courts may grant remedies and relief as appropriate.

6.9 The RDO provides specific legal protection against racial discrimination. Under the RDO, a victim of racial discrimination, harassment or vilification may make a claim by bringing civil proceedings in the District Court. The District Court has the power to grant such judicial remedies in those proceedings as would be obtainable in the Court of First Instance. In particular, the District Court may:

(a) Make a declaration that the respondent has engaged in conduct that is unlawful under the Ordinance and order that the respondent shall not repeat or continue such unlawful conduct;

(b) Order that the respondent shall perform reasonable act or course of conduct to redress any loss or damage suffered by the claimant;

(c) Order that the respondent shall employ or re-employ the claimant;

(d) Order that the respondent shall promote the claimant;

(e) Order that the respondent shall pay to the claimant damages by way of compensation for any loss or damage suffered by reason of the respondent's conduct;

(f) Order that the respondent shall pay to the claimant punitive or exemplary damages;

(g) Make an order declaring void in whole or in part and either ab initio or from such date as may be specified in the order, any contract or agreement made in contravention of the Ordinance.

### **Article 7: Measures to combat prejudice**

7.1 The HKSAR Government attaches great importance to public education as an effective measure to foster understanding and to cultivate respect for racial differences, which are fundamental for the elimination of prejudices and discrimination. This Report has outlined the many initiatives taken on public education against racial discrimination and support services for the ethnic minorities. The HKSAR Government shall continue to implement these measures and, subject to assessment of need and availability of resources, enhance relevant services as necessary.

7.2 For example, in 2014, the Constitutional and Mainland Affairs Bureau and the Radio Television Hong Kong co-operated to produce a 10-episode TV documentary series ("Hong Kong, My Home"), made available at local TV channels and on the Internet, and a school outreach programme to help the public understand the culture and customs of different ethnicities. In the light of the positive feedback, the Bureau has commissioned another series for broadcast in the summer of 2016.

## Equal Opportunities Commission

### Code of Practice and Guides

7.3 The RDO and the Code of Practice on Employment (Code) issued by the EOC pursuant to section 63 of the Ordinance came into full operation in July 2009. As employment is an important aspect of daily life and ethnic minorities are often vulnerable to workplace discrimination, this Code gives practical guidance on how to prevent discrimination, harassment and other unlawful acts on the ground of race. The Code is intended to encourage employers, employees and other concerned parties to promote racial equality and harmony in the workplace by adopting good practice, and to help them understand their respective rights and responsibilities under the Ordinance.

7.4 Besides, a number of publications and guides have been developed and published in English, Chinese and ethnic minority languages to explain the application of the RDO in different sectors. Some major ones include “A Guide for Foreign Helpers and Their Employers”, “What You Should Know as a Real Estate Agent, Landlord, Tenant, or Home Buyer” (a guide to addressing discrimination in real estate leasing and sales), “Racial Equality and School Uniform” (a guide for schools to develop and implement uniform rules that are racially and culturally inclusive).

### Public Education and Publicity

7.5 Apart from law enforcement, public education is also key to combating prejudice and discrimination. Since the implementation of the RDO, the EOC has accorded a high priority to increasing public understanding of the law and promoting cultural inclusion through a diversity of publicity and educational programmes, including:

- (a) Publication of “RDO and I” leaflet to provide a brief introduction of the provisions in the RDO in multiple languages;
- (b) Weekly radio programmes and other publicity projects on different mainstream radio channels;
- (c) Radio segments on radio shows targeted at ethnic minority communities;
- (d) Five episodes of TV docudrama titled “A Mission for Equal Opportunities” on the promotion of racial equality and integration;
- (e) Announcements in the Public Interest on TV and radio;
- (f) Outdoor advertisement campaigns at the Mass Transit Railway stations, bus shelters, bus body and tramcar body;
- (g) Advertisements in newspapers targeted at both mainstream and ethnic minority readers;
- (h) Newspaper supplements on racial equality and diversity;
- (i) “A World of Colours” resource webpage on race issues;
- (j) “My Vision of Equal Opportunities” Photo Competition;
- (k) YouTube video competition and online media promotion;
- (l) Roving exhibitions on the RDO; and
- (m) Community Participation Funding Programme for 145 projects from NGOs promoting racial equality and integration.

7.6 In order to introduce the concepts of equality and non-discrimination at an early stage, the EOC has been conducting talks at different schools to prevent racial discrimination and encourage cultural inclusion. In addition, the EOC employs other interactive approaches to develop educational programmes for youths, such as school drama performances, and sharing from outstanding achievers as mentors (Project “Uniquely Me!”). Through these channels, the EOC was able to cover a wide spectrum of participants including both Chinese students and ethnic minority students as well as teachers and school administrators.

7.7 Employers and providers of goods, services and facilities are also major target groups of the EOC's educational programmes on the RDO and promotion of culturally inclusive workplace. Therefore, training and talks on these subjects have been provided regularly to both the public and private sectors. Over the years, 290 course sessions have been implemented to educate students and teachers, civil servants, staff from small and medium enterprises, members of professional bodies, etc. The number of participants totalled 16 700.

7.8 To raise the awareness of the protection under the RDO among the ethnic minority population, the EOC also frequently conducts outreach activities to the ethnic minority communities as well as religious organisations (248 community events, 163 network meetings and 102 visits to religious organisations since 2009) and has successfully established strong connections with community leaders and NGOs working for ethnic minorities. Workshops and talks were regularly delivered to members of different ethnic minority communities (303 workshops and talks to 20 364 participants since the beginning of 2009) and their feedback on discrimination and inclusion was collected for consideration of policy recommendation.

### **Surveys and Reports**

7.9 The EOC set up the Working Group on Ethnic Minority Education in July 2010 to study the education barriers faced by ethnic minority students. Through a number of research projects, the EOC also regularly collects information about discrimination experienced by ethnic minorities in education, employment and obtainment of services, so as to look into the issues and propose measures for improvement to the HKSAR Government and respective sectors.

7.10 The EOC published the "Study on Racial Encounters and Discrimination Experienced by South Asians" in 2012. The study found that the most common types of discriminatory behaviours against South Asians were related to finding employment and on-the-job treatment. Socially, there had been little interaction between the Chinese society and the South Asian community. Based on the findings, the EOC proposed a range of measures on employment, education, social interaction and provision of goods, services and facilities to boost mutual understanding and social integration.

### **Work of the Ethnic Minorities Unit**

7.11 On the training level, in view of the difficulties many ethnic minorities encountered in schooling as well as getting bank and housing services, a number of sectors such as education, banking and property are primary targets for cultural sensitivity training. Workshops and talks for educators, banking staff and estate agents were conducted or would be implemented. Besides, suggested practices for fair service to ethnic minority customers have been provided for dissemination to banks in Hong Kong and a booklet on the application of the RDO in the school setting and the development of an inclusive school environment will be published in 2015-16. Meanwhile, the EM Unit is working with the Hong Kong Monetary Authority, The Hong Kong Association of Banks and the Estate Agents Authority to deal with ethnic minorities' difficulties in obtaining banking services and renting flats. The EM Unit also held discussions with the EDB and Hospital Authority to look into the progress of the HKSAR Government's support for ethnic minority students to learn Chinese and integrate into mainstream society, as well as the measures to overcome language barriers in hospital services respectively.

7.12 In order to strengthen the EOC's ability to communicate and network with various ethnic and linguistic communities, the EM Unit also recruited staff from a diversity of ethnic minority groups in Hong Kong (Indian, Indonesian, Nepalese, Thai, and Pakistani), so that the messages of anti-discrimination and racial harmony can be more effectively promoted. Through these networks, the EOC is able to foster closer partnership and embark on joint projects to intensify efforts in this area. For instance, the EOC launched its 2015 annual forum under the theme of "Education and Employment Challenges of Ethnic Minorities" in which stakeholders such as ethnic minority community leaders, NGO representatives, Government officials and employers can be brought together to communicate on concerns relating to various ethnic groups.

## **Schools**

7.13 Schools in Hong Kong promote students' understanding of the roles, rights and responsibilities of individuals and groups and the importance of social justice; also their appreciation of and respect for the cultures and heritage of different communities through the teaching of relevant subjects such as General Studies at primary level, Life and Society at junior secondary level, as well as History, Ethics and Religious Studies, Tourism and Hospitality Studies, Health Management and Social Care and Liberal Studies at senior secondary level. In addition, schools implement Moral and Civic Education through related lessons or whole-school approach learning activities to instil in students the importance of human rights, rule of law, democracy, equality, respect for others, freedom, justice, care for others, racial harmony, etc. In parallel, schools also provide multifarious co-curricular activities and Other Learning Experiences (at senior secondary level), such as assemblies, talks, service learning, visits, etc. to deepen students' understanding of these concepts and values. Towards this end, the EDB has been organising activities on a continual basis to facilitate student learning and teachers' professional development according to their needs, and developing related learning and teaching resources.

7.14 Many tertiary institutions offer programmes on history and culture of different countries, either for specific humanities discipline or as general education programmes for all their students. Courses on various aspects on human rights are also offered by the University Grants Committee-funded institutions. These programmes enable students to gain a better understanding of people of different races and ethnic origins. Many University Grants Committee-funded institutions have also organised student exchange and other forms of informal activities which are conducive to promoting cultural diversity, widening the students' exposure as well as enhancing their appreciation of different culture.

## **Committee on the Promotion of Civic Education**

7.15 The Committee on the Promotion of Civic Education (CPCE) under the Home Affairs Bureau promotes civic education outside schools, including human rights. As explained in paragraph 196 of the previous report, the CPCE has a full-time education unit for the purpose. In addition, the CPCE provides sponsorship to community organisations through its Community Participation Scheme to organise activities to promote public understanding of human rights, among others.

## **Committee on the Promotion of Racial Harmony/Ethnic Minorities Forum**

7.16 The HKSAR Government's efforts are supported by the CPRH which consists of members of different racial groups from different walks of life and include representatives from HKSAR Government departments and NGOs which are involved in providing services for the ethnic minorities. The CPRH discusses proposals for race-related public education and publicity as well as support services to help ethnic minorities gain access to public services such as education, healthcare, employment, housing and social welfare services so as to enable relevant Government departments to hear their views. Moreover, through dialogues at the Ethnic Minorities Forum, a platform for communication between the HKSAR Government and ethnic minority communities, the HKSAR Government aims to ensure that services and public education programmes are effectively focussed on relevant areas of needs and concerns, and at the appropriate targets.

## **Durban Declaration and Programme of Action 2001**

7.17 General Recommendation XXVIII of the Committee calls on State Parties to "include in their periodic reports information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at the national level". The HKSAR Government's response to the paragraphs in the Programme of Action applicable to the HKSAR is in the **Appendix**.