

Status of Ethnic Minorities in Hong Kong 1997 – 2014



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Centre for Comparative and Public Law

***Status of Ethnic Minorities
In Hong Kong 1997 – 2014***

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2015

Published in 2015 by the Faculty of Law, The University of Hong Kong

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ACKNOWLEDGEMENTS

The Status of Ethnic Minorities in Hong Kong 1997-2014 project would not have been possible without a number of people. Many thanks to each of the following:

The Zubin Foundation, for funding this research project and for being a collaborative research partner that helped give shape to the project in its final form.

Shalini Mahtani, Co-Founder of The Zubin Foundation, and an Editorial Contributor for this Report. She is the person responsible for the project, having originally conceived of the idea in light of the critical data gap that exists in Hong Kong. As Editorial Contributor, Shalini made numerous contributions to all the chapters and I am most grateful for her insights, analysis and mentorship throughout the project.

Sandy Wi Shan Chan of The Zubin Foundation, for her administrative support and help on the logistics of the project.

Dr. Sherif Elgebeily, Assistant Research Officer at the Centre for Comparative and Public Law, Faculty of Law, the University of Hong Kong who helped compile and design the Report in its final form as a Copy Editor.

Student Researchers and Editorial Assistants who spent a tremendous amount of time collecting and compiling a repository of all existing material on ethnic minorities in Hong Kong. They were extremely generous, resourceful and dedicated to this project. The following individuals contributed to the Report in its various stages:

Astina Au, LLM (Harvard), PCLL (HKU), LLB (HKU)

Kevin Lau Cheuk Kei, PCLL (HKU), LLB (HKU), about to embark on an LLM at Cambridge University

Yuen Mei Sharon, PCLL (HKU), LLB (HKU), about to embark on an LLM at Harvard.

Kathleen Ka Yiu Lau, LLB (HKU), currently enrolled in Master of Laws at Melbourne University.

Arthur Chan, PCLL (HKU), LLB (HKU), for assistance on the Chapter on Language, Integration, Identity and Belonging.

Mona Yip, PCLL (HKU), LLB (HKU), for assistance on the Chapter on the Healthcare Needs of Ethnic Minorities in Hong Kong.

Vinci Cheung, MStat (HKU), BSc (HKU), for his assistance with coding for SAS to assist with the self-tabulation services at the Census and Statistics Department.

Cordelia Yeung, PCLL Candidate (HKU) for assistance with formatting the footnotes throughout this Report.

Arthur HY Au, LLB (Bristol), MA (UCL), PG Dip Candidate, Fall Research Intern, Center for Comparative and Public Law, for producing various graphs for inclusion in this Report.

Joel Lee, Young Researcher, Centre for Comparative and Public Law, Assistant Copy Editor.

The following people kindly served as Reviewers for various chapters and I am most grateful for their insightful comments, many of which helped sharpen the content of the chapter to render it more complete and accurate as a representation of the state of existing research in that area:

Professor Kerry Kennedy, Research Chair Professor of Curriculum Studies; Director, Centre for Governance and Citizenship at the Hong Kong Institute of Education, Chapter on the Education of Ethnic Minorities in Hong Kong.

Che Singh, PhD Candidate, HKU, Chapter on Crime and Law Enforcement.

Trisha Tran, section A6 on ethnic minority special education needs children in the Chapter on the Education of Ethnic Minorities in Hong Kong.

FOREWORD

The Status of Ethnic Minorities in Hong Kong, 1997 to 2014' ("the Report") is a compilation, synthesis and interpretation of research presently available that covers Hong Kong's ethnic minorities from the time of the return of Hong Kong to China to the present day. Shockingly, given the long and significant history of ethnic minorities in Hong Kong, this is the first and only research of its kind to date.

The idea for this research was born by The Zubin Foundation seeking to understand the issues pertaining to ethnic minorities in Hong Kong only to find that the research was scattered and difficult to locate. With increasing interest in ethnic minorities on the part of the government at a policy and bureau level, civil society NGO's, schools, foundations, grant makers and employers, it seemed unbelievable that decisions about ethnic minorities and their needs, was not research driven.

Based on this, The Zubin Foundation, together with The University of Hong Kong's Centre for Comparative and Public Law, our research partner, decided to produce this Report. The Report has been funded by The Zubin Foundation together with a kind donation from Purvis and Rusy Shroff.

Perhaps what is most unique about this research is that both partners of this research are ethnic minority women who self define as "Hong Kong people". The recommendations therefore put forward are not only based on theory but also etched in personal and historical experiences.

What is clear from this research is that more work must be done to improve the lives of ethnic minorities in Hong Kong, across all spheres of life. Above all we ask for the following:

1. That ethnic minorities themselves become champions for the plight of our communities. We must move away from the "immigrant mentality" and carve a legitimate space for ourselves in dialogue about Hong Kong. This is especially true for the business sector and others in positions of influence, who have traditionally had the ear of government. The discussion must be twofold (a) to assist those in our communities in need and (b) to include our voices in government in sub committees.
2. A review of the term "ethnic minority" which is demeaning, non specific and not inclusive.
3. That the Hong Kong SAR Government (a) sets up a high level multi departmental and multi disciplinary committee on ethnic minorities (b) considers ethnic minorities for positions on government advisory sub committees and (c) consciously includes the history of ethnic minorities in Hong Kong's history textbooks and government literature on Hong Kong.
4. Funding for research and thinking about ethnic minorities. Through this research we have been delighted at the high level of interest shown in learning more about ethnic minorities. Although there is funding available for projects and interventions there is almost none available for research and thinking. If the plight

of ethnic minorities is to change in Hong Kong, funding for research and thinking is critical.

We look forward to any comments or questions you may have and thank you in advance for your support.

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The Zubin Foundation
*Maternal Great Gandfather
settled in Hong Kong in 1911*

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*Paternal Grandfather settled in Hong
Kong in 1953*

INTRODUCTION

There is a long history of ethnic minorities in Hong Kong, with some families now having been here since the time that the first British Battalion landed in Hong Kong. Indeed, Sikh and Indian members of the British army witnessed the proclamation ceremony at Possession Point where the British flag was hoisted in 1841.¹ As members of the British armed forces first and later, as merchants and businessmen who came to be part of Hong Kong's vibrant entrepot. Collectively, they boast contributions including the founding of the first university in the territory as well as the Hong Kong and Shanghai Banking Corporation and the Star Ferry.

When advocates have raised questions about the possibility that Hong Kong is falling foul of its obligations under the Convention for the Elimination of Racial Discrimination (CERD), the government confidently says 'No.' As for the incidents we hear about, these are explained away as 'one-off' instances of cultural difference, miscommunication or misfortune. However, after decades of raising awareness about Hong Kong's entrenched racism, it is time for numbers and evidence to speak to the issue. Perhaps this will improve communication between communities and help everyone better understand where ethnic minorities stand relative to the Hong Kong population as a whole.

The government has taken a largely education-oriented approach towards addressing discrimination focusing its efforts on the need to eliminate cultural misunderstandings through celebrating cultural festivals or those aspects of our identities which are 'exoticised'. However, recent examples of discrimination give pause for thought for their shock value. How can an Indian woman have lost her life as a result of unequal treatment on the basis of her darker skin colour in a Hong Kong hospital? How can a Pakistani man whose great uncle served in the army to fight the Japanese occupation and whose family has been in Hong Kong for one hundred years be ineligible to naturalise as a Chinese despite his roots and perfect Cantonese diction?

Having been here since the establishment of the territory, many ethnic minorities feel a deep-rooted connection with Hong Kong and it is their home as it has been for generations. Over the decades, we have witnessed a continuous rise in the number of ethnic minorities living in Hong Kong. Some come here to unite with their families, whilst others come here to work and end up making it their home. Despite this growth in numbers, however, Hong Kong falls far short of the standards that would be expected of 'Asia's World City' given that it thrives on this very cosmopolitanism and richness of diversity.

For some reason, over the years, there has been a misperception that Hong Kong's ethnic minority population is a 'transient' population; that as a group, they are amorphous and liable to change depending on their social, economic or other personal circumstances. This misconceived notion seems to underscore the nature of policymaking pertaining to minority groups in Hong Kong. Whilst resources are routinely and abundantly allocated to ensure adequate provisions are made for education, health, social welfare, employment and family in relation to the society as a whole, there are piecemeal approaches to 'adding on' extra measures to these with a view to looking after the needs of 'special groups.'

Unfortunately, such an approach does not work. Time and again, there have been numerous examples of instances where the system has failed minorities, first in terms of refusing to recognize the extent to which they suffer inequality and discrimination in the

community and now, in terms of failing to understand the ways in which there is a systemic mismatch between their needs and the measures that are currently in place to meet their basic human rights.

In light of their historical roots here, their service to Hong Kong during the Japanese Occupation, and their continued contribution to society, it is only apt that we seek to better understand ethnic minorities and their needs and more importantly, collate in one place the evidence that belies the systemic, structural and entrenched nature of the failure to deliver on the promise of equality and respect for the equal worth and dignity of all people regardless of race, colour, and ethnicity.

The objective of this Report therefore is to identify the existing research material pertaining to ethnic minorities in Hong Kong from after the handover until 2014 and to compile, interpret and analyse the research with a view to developing a broad picture of the situation of ethnic minorities in Hong Kong in key areas of life. The Report seeks to understand the background, opportunities for development, enrichment, education and employment and social, health and family life provisions in relation to the ethnic minorities of Hong Kong. It is hoped that this exercise will lead to the emergence of core priority areas for further research, advocacy and policymaking driven by evidence. In one sense, this Report sets the ball rolling and it is hoped that others will pick up where this Report leaves off, to fill in the gaps and continue the mapping exercise to build a comprehensive picture of the status of ethnic minorities in Hong Kong.

As the demographic constitution of a community changes, it is necessary to take stock of the changes and assess the ways in which the needs and potential of this community to contribute to Hong Kong has altered as well. However, this does not appear to have been done in the case of Hong Kong's ethnic minority population. There is scant data whereas their key demographic data which has been put together by the Census and Statistics Department in the form of a Thematic Report on Ethnic Minorities is not collated in a manner that is necessarily most conducive to determining the most accurate data points for effective and targeted policymaking.

For example, the ways in which the population is categorized as a whole as well as the sub-groupings do not fully or adequately reflect understandings representations of ethnic minority identities today nor do they befit the manner in which these groups would themselves like to be recognized. The material available therefore, unhelpful in forming conclusive views about specific groups and cannot lead to particularized understandings of ethnic minority needs and the priority areas for policymaking in relation to them. Sometimes, wholly inappropriate and irrelevant terms are used to describe groups and causes confusion in reading and understanding the data.

A similar information deficit appears to plague others in the community, who have sought to work with or learn more about ethnic groups in Hong Kong and attitudes towards them. For example, the use of terms such as 'Arabian' in one piece of research illustrates the need for greater scrutiny not only of the policies that However, they have failed to recognize that within the category of 'ethnic minorities', the government includes groups with vast differences including Whites and foreign domestic helpers. More recently, the government has conflated the issues relating to ethnic minorities in the context of education by coining the term 'non-Chinese speaking students' or 'NCS students' to describe those who cannot speak Cantonese, regardless of their ethnicity. Necessarily, the needs of NCS children who ethnic Chinese will differ from the needs of NCS non-ethnic Chinese students due to the

differences in exposure to the Cantonese language depending on their respective home environments and social communities.

In light of this there is an urgent need to reexamine the use of terms such as ethnic minority, which carries certain political connotations (some of these are negative) in light of the global discourse on minorities and diversity management and nation building. On the other hand, the term is non-specific and therefore, unhelpful as a term to understand particular groups' demography, which may be individually significant but when brought under this umbrella heading, its significance is lost. To be described as a minority is burdensome and disempowering. It is time that we chart a new discourse for Hong Kongers who are its coloured community. And it is essential that ethnic minorities participate in this discourse on how they wish to be referred to in the context of Hong Kong.

METHODOLOGY

The methodological approach to this Report involved conducting a thorough literature review of all existing research pertaining to minorities in what we have identified as 'core life areas', including, legal protection, key demographic data, perceptions of ethnic minorities, language, identity, integration and belonging, education, employment, poverty and social welfare, health and crime and law enforcement. The period for the survey of literature review was all work since the handover in 1997 to 2014. In some instances, 2015 literature has been included because of its salience or indispensability to the broader arguments and themes emerging from this Report.

The literature has been compared with and supplemented by available statistical data as obtained through the Census and Statistics Department's (CSD) Reports and its online interactive data service. Although attempts were made at using the CSD's self-tabulation workstations and service, in the end, the data to be disaggregated by several variables produced too few numbers to be permissible to extract into tables as this would be in violation of privacy policies.

The literature and data was then analysed and interpreted to identify the core areas which warrant urgent attention in light of the findings. These formed the basis of the key observations pertaining to each of the areas covered by the chapters of this Report. Drawing on these, focused recommendations were formulated for each Chapter to identify critical aspects needing urgent attention. It is hoped that these recommendations, including the broader areas of attention outlined in the Key Recommendations Chapter will provide useful food for thought for those working in the respective areas in general as teachers, doctors, social workers, employers and also, those whose work routinely involves interaction with or concerns ethnic minorities.

Despite efforts having been made at being thorough, it is invariably anticipated that there are other research work that has been carried out and relevant to this Report. Authors of such reports and outputs are encouraged to write to the author of this Report and to identify such resources to facilitate the development of a repository of research material pertaining to ethnic minorities in Hong Kong. Furthermore, where there is no data on particular aspects, this has been identified as a data gap. Funders, government bureaus, non-governmental organisations and researchers are invited to identify areas of interest in this data gap and to pursue such further research so that increasingly, policymaking and

the development of approaches to diversity management in Hong Kong become evidence-based.

Terminology

This Report is interested in looking at the reasons behind the comparatively poorer life experiences in a range of areas between different groups of Hong Kong residents. As such, although the term ‘ethnic minorities’ would ordinarily refer to the full range of persons residing in Hong Kong, the Report distinguishes between different groups. This is done to highlight that even the longer-term resident ethnic minority groups face barriers and difficulties in everyday life. That being a Hong Konger does not in and of itself entitle you to all the benefits that one would consider to be equally available to all persons resident in the territory without distinctions as to race, colour, ethnicity, religion, culture, etc..

At the same time however, there are some ethnic groups who fare better than others in terms of access to opportunities and services in Hong Kong. This Report concerns itself with identifying how the groups compare in terms of their treatment, experience, and opportunity of access for upward social mobility through education, employment, etc..

Despite the problems identified with the term ‘ethnic minorities’, this Report does use it because it has come to acquire a meaning of reference to those who are non-ethnic Chinese in Hong Kong. However, for the reasons aforementioned, given that there are diverse experiences that characterize the life of all those who fall under this broad umbrella term ‘ethnic minorities’, to focus attention on the groups who are perceived as experiencing challenges in various aspects of life, this Report intentionally only includes discussion of South and East Asian minorities where relevant. As such, the term, as used in this report, does not purport to cover the situation of the category ‘White’, although they fall within the definition of this term as it is presently used in official parlance.

The second group that is not covered by the use of this term are foreign domestic helpers (FDHs). Their presence and experiences in Hong Kong warrant a focused study of its own given the unique circumstances pertaining to their situation. There are no doubt, overlapping areas of concern, particularly with respect to equality, non discrimination, health and family life. However, this Report does not cover the situation of FDHs although it does address the Filipina and Indonesian population otherwise resident in Hong Kong.

In the context of Hong Kong, the term ‘ethnic Chinese’ is unhelpful to use in contradistinction to the term ‘ethnic minorities’ because Hong Kong has received and continues to receive a large number of ethnic Chinese settling in through the one-way permit scheme operative between Hong Kong and China. As such, the term ‘Hong Kong Chinese’ is used to define the ethnic Chinese population who are considered Hong Kong’s ‘non-immigrant’ and therefore, ‘permanent’ population group.

Some of the reports produced by the CSD use ‘country of origin’ or ‘nationality’ to collect data or maintain statistics. This term, however, is too broad and vague to account for Hong Kong’s ethnic minorities especially since they may be born in another country but reside in Hong Kong since birth or soon after, having no other connection with their ‘country of origin’. Alternatively, they may wish to acquire Chinese nationality but are unable to do so and their birth nationality has little to do with how they identify.

In light of the difficulties the existing terms of usage are fraught with, the Government should also carefully reconsider and standardize terms of usage across its different data collection and reporting bodies (including the police, social welfare, labour, health and

other departments and bureaus) so that the terms are specific, accurate and consistently used. This would assist greatly in ensuring enhanced specificity to capture the distinct positions of different groups, including new migrants and Hong Kong permanent resident non-ethnic Chinese.

The research presented in this Report is drawn from existing data and research material that is publicly available. In some circumstances, the data pertains to ethnic minority groups more broadly and includes data of groups in addition to those that have been identified as the focus for this Report. In some areas, where limited data disaggregated by ethnicity is available, the data referenced is provided to offer a general impression and should be viewed with this important caveat in mind. It may, in such instances, be unreliable to draw generalised conclusions from the limited data. However, it has been included to highlight that more specific data disaggregated by ethnicity, gender, age and other variables is desirable to facilitate policy development and focused interventions. These are data gaps that we recognise and have identified through this report. We encourage the government and other researchers to identify additional data gaps and supplement with research of their own.

¹ Kwok S. T., Narain, K. (2003). *Co-Prosperity in Cross-Culturalism: Indians in Hong Kong*. p.18.

**THE RIGHTS OF ETHNIC MINORITIES UNDER THE LAW: EQUALITY
AND NON-DISCRIMINATION****OVERVIEW**

As the research findings and discussion presented in this Report will show, ethnic minorities face direct or indirect discrimination in various contexts including education, employment, health care, and participation in political and public life. Discrimination impacting these core areas of life has the effect of depriving the targeted group of their rights to equal enjoyment of their fundamental human rights. It also deprives them of the inherent respect and dignity that is accorded to all persons irrespective of their race or ethnicity.

In this chapter, we examine what guarantees are in place in the Hong Kong legal system to protect individuals and groups against discriminatory treatment and their effectiveness in protecting ethnic minorities.

Equality and non-discrimination are two core principles that are mutually interdependent in achieving effective protection against the harms of inequality and discriminatory treatment.¹ Discrimination is the unfair or prejudicial treatment of another person that is a result of attitudes of exclusion stemming from misunderstandings, misplaced assumptions and stereotypes about particular groups of people based on some immutable trait or characteristic.

Without recognising the principle of equality and its extension to all people as a matter of right and without a commitment to non-discrimination in all spheres, the critical gap in cultivating attitudes that are necessary to root out discrimination will remain unaddressed leaving little hope of achieving equality in practice.

The right to equality and non-discrimination are guaranteed under Hong Kong law through provisions in the Hong Kong Basic Law (“HKBL”) and the Bill of Rights Ordinance (“BORO”), and more specifically, the four anti-discrimination laws, including the Sex Discrimination Ordinance (Cap. 480) (“SDO”), the Disability Discrimination Ordinance (Cap. 487) (“DDO”), the Family Status Discrimination Ordinance (Cap. 527) (“FSDO”), and most recently, the Race Discrimination Ordinance (Cap. 602) (“RDO”), which was enacted in 2008. The Hong Kong Equal Opportunities Commission (“EOC”) has oversight of matters relating to these anti-discrimination ordinances (but not claims arising under the HKBL or BORO, although the EOC may intervene in some cases to assist the court in relation to equality-related issues that arise). Its role is to oversee the implementation of the four anti-discrimination ordinances and to pursue reconciliation between the parties to a complaint in the first instance, before considering whether to provide legal assistance to the complainant for legal action where reconciliation fails. The EOC also has powers of investigation to look into any policies and practices that violate the provisions of these laws and to make a finding accordingly, based on which it may bring a legal action against the party responsible for the violations.

Although the RDO was enacted with the intent of meeting Hong Kong’s obligations under the International Convention for the Elimination of Racial Discrimination (“ICERD”) after extensive delays on the part of the Government, the passage of RDO itself was fraught with controversy. The Government was reluctant to introduce such legislation from the outset.

This was despite the fact that both public opinion surveys and consultation exercises in 1997 and 2001 highlighted the prejudicial attitudes of Hong Kong Chinese towards racial minorities. The Government concluded on the basis of these public consultation exercises that Hong Kong had no serious racial discrimination problem.² It was only at the urging of the business community (25 out of 34 business entities consulted favoured legislation to combat racial discrimination), one of the primary stakeholder groups consulted in 2001, the emergence of stories of the lived realities of racism in Hong Kong and the pressure of the international treaty bodies that led to change in Government's decision to introduce the bill.

"It is recommended that ... the local authorities of the [HKSAR] review the existing unsatisfactory situation thoroughly and that appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, colour, descent, or national or ethnic origin, as has been done with regard to discrimination on the grounds of gender and disability"

- Committee on the Elimination of Racial Discrimination, 2001

"It is the Committee's view that the failure by HKSAR to prohibit race discrimination in the private sector constitutes a breach of its obligations under article 2 of the Covenant. The Committee calls upon HKSAR to extend its prohibition of race discrimination to the private sector."

- Committee on Economic, Social and Cultural Rights, 2001

"The Committee remains concerned that no legislative remedies are available to individuals in respect of discrimination on the grounds of race or sexual orientation. Necessary legislation should be enacted in order to ensure full compliance with article 26 of the Covenant." - Human Rights Committee, 1999 "The Committee urges the HKSAR to adopt the necessary legislation in order to ensure full compliance with article 26 of the Covenant."

- Human Rights Committee, 2006

In light of these repeated calls, in 2006 the Home Affairs Bureau took heed and in a briefing paper prepared for the Legislative Council, it echoed the need to enact the necessary legal protections against racial discrimination. It noted that, "[t]he absence of specific legislation in Hong Kong against racial discrimination ... has been the subject of much criticism and concern ... Over the last ten years, there have been calls from the UN High Commissioner for Human Rights for Hong Kong to enact the necessary legislation. These calls have been repeated in unison by various UN human rights treaty monitoring bodies ... every time the Hong Kong human rights reports are scrutinised and discussed at international hearings."³

Contrary to the public's expectations, however, the Race Discrimination Bill was weaker than the other anti-discrimination ordinances protecting individuals against other forms of discrimination on grounds of sex, disability and family status. For example,

discrimination was narrowly defined and certain government acts appeared to be excluded from the Bill.⁴ Although the proposed bill had numerous gaps and flaws with some of the provisions themselves being discriminatory, ultimately, civil society groups opined that it was in the interests of racial and ethnic minorities to have some legislation in place, albeit defective, as opposed to no legal protection against racial discrimination. The bill was enacted in 2008 in the form of the RDO and came into force (i.e. had legal effect) from July 2009.

As anticipated, given the deficiencies identified in the law before it was enacted, the RDO's effectiveness in addressing discrimination faced by ethnic minorities has come into question in the first six years of its operation. To date, the number of complaints filed with the EOC under the RDO remains low. Indeed, Hong Kong's first racial discrimination case brought under the RDO is being heard in the court at the time of writing.⁵ There is much anxiousness surrounding the court's decision given its potential to expose the flaws in the RDO, particularly in relation to the broad exemption of the conduct of various government bodies from the purview of RDO. The case is brought against the Hong Kong Police Commissioner for racial discrimination. It remains to be seen whether the exemption will be held as applicable to exclude police conduct from the remit of the RDO or ruled to be inconsistent with and contrary to Hong Kong's obligations under the ICERD. In the event of the latter finding, the exemption would be deemed too broad and cannot apply to exclude the government's conduct in this particular instance.⁶

One of the purposes of any legislation is to educate members of the society on appropriate standards and norms of behaviour. The law is used to lead social change and an evolution of attitudes in the community. In the case of the RDO, however, a deeply divisive debate over whether such protection was warranted and necessary led to a version of the law which was riddled with so many exemptions that it has had the opposite effect of undermining confidence in the legislation, particularly in its educational function and in its practical utility to offer meaningful protection to targets of racial discrimination. Instead, it sends the message that discriminatory treatment against some people in certain circumstances is acceptable. This message is reinforced given the comparatively weaker version of this anti-discrimination law protecting individuals against racial discrimination as opposed to the stronger protections provided when discrimination occurs on grounds of sex, disability and family status.

Multiple reports in the media and outcomes of surveys and research studies show that ethnic minorities continue to face discrimination despite the existence of the RDO. For instance, an Indian man who was a practicing Christian could not find a burial ground for his Indian wife at the Chinese Permanent Cemeteries because it only accepts ethnic Chinese applicants.⁷ He had no legal redress because burial grounds and cemeteries are exempted from the purview of RDO. In another example, gifted Indian boy Arjun Singh was home-schooled because his parents could not find a school that satisfied his special learning needs.⁸ These only confirm the worst fears raised by critics of the Bill that the proposed law was a toothless paper tiger with little meaning and a slew of unwarranted exemptions.⁹

Apart from legislation, there are numerous other measures that the government ought to take to enhance the visibility and integration of people of diverse backgrounds into the community. These measures should strive to foster equal respect for everyone's dignity and heritage, and to promote understanding, harmony, equality and social inclusion. These efforts

should be complementary to legislative and other policies to ensure equality and non-discrimination across all spheres of life.

A. THE LEGAL FRAMEWORK

A1. *The Hong Kong Basic Law*

Article 25 of the HKBL provides that:

“All Hong Kong residents shall be equal before the law.”

Furthermore, Article 4 of the HKBL provides that:

“The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law.”

By virtue of Article 4, it is clear that the guarantee of equality under Article 25 is not limited to *residents* of Hong Kong, but also extends to *other persons in the Region*. Thus, equal treatment and non-discrimination are the cornerstones of our commitment to ensuring that the rights of all persons are fully protected in Hong Kong, regardless of their race, ethnicity, nationality and immigration status.

A2. *International Covenant on Civil and Political Rights and Hong Kong Bill of Rights Ordinance*

The International Covenant on Civil and Political Rights (ICCPR) is a one of the most widely ratified international human rights treaties adopted by 161 States parties, including the United Kingdom, which extended its application to Hong Kong.¹⁰ The provisions of the ICCPR enjoy constitutional status as they are incorporated into the HKBL through Article 39. These rights and freedoms enjoyed by all Hong Kong residents may not be restricted unless prescribed by law. Moreover, any such restrictions or limitations must be in accordance with the provisions of the ICCPR itself, limiting the possibility of any contrary local legislation from enacted in Hong Kong.

In 1991, the BORO was enacted in Hong Kong. Section 8 of the BORO sets out the provisions of the Hong Kong Bill of Rights, the terms of which are almost identical to those of the ICCPR. This incorporates the rights and guarantees enshrined in the ICCPR directly into Hong Kong legislation.

Article 1 of the BORO provides that

“(1) The rights recognised in this Bill of rights shall be enjoyed without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) Men and women shall have an equal right to the enjoyment of the civil and political rights set forth in this Bill of Rights.”

This in effect duplicates the provisions of Articles 2(1) and 3 of the ICCPR which provide as follows:

Article 2(1) of ICCPR

“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Article 3 of ICCPR

“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”

Further, Article 22 of the BORO (which models Article 26 of the ICCPR) protects the right to equality and non-discrimination. It prohibits discrimination on various grounds including, race, colour, sex, language, religion, national or social origin, birth or other status.

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth and other status.”

Article 23 of BORO (which mirrors Article 27 of the ICCPR) protects the rights of ethnic, religious or linguistic minorities in community with the other members of their group to enjoy their own culture, to profess and practise their own religion, or to use their own language.

A3. International Convention on the Elimination of Racial Discrimination (ICERD) and International Covenant on Economic Social and Cultural Rights (ICESCR)

Hong Kong has additional international obligations under ICERD and ICESCR to prohibit and eliminate racial discrimination, as well as to guarantee that all rights protected in the ICESCR are guaranteed to all persons without distinction of any kind based on grounds including race, colour, language, religion, national or social origin.

A4. Race Discrimination Ordinance

In addition to the international legal commitments under the provisions set out above, the RDO, which was enacted in July 2008 and has been in operation since July 2009¹¹, is intended to enhance the protection of the rights of ethnic minorities, and in particular, to protect them

against discrimination, unequal treatment, harassment or vilification based on race in a range of contexts.

Section 8 of the RDO defines ‘race’ to mean “race, colour, descent or national or ethnic origin of the person.” The RDO prohibits several forms of discrimination, including:

- (i) direct and indirect discrimination (section 4(1) of RDO);
- (ii) discrimination on the ground of race of near relative (section 5 of RDO);
- (iii) racial harassment (section 7 of RDO);
- (iv) racial vilification (section 45 of RDO); and
- (v) discrimination by way of victimisation (section 6 of RDO).

(i) Direct and Indirect Racial Discrimination

Prohibition of direct and indirect discrimination

According to section 4(1) of the RDO, discrimination occurs when:

- (a) *the discriminator treats a person less favourably than other persons because of the person’s race (“direct discrimination”); or*
- (b) *“the discriminator applies to [another] person a requirement or condition which the discriminator applies or would apply equally to persons not of the same racial group as that other person but –*
 - (i) *it is impossible for persons of the same racial group as the person discriminated against to comply with the requirement or condition, only a much smaller proportion of persons of the same racial group as the person can comply with it, when compared to persons not of that racial group*
 - (ii) *the imposition of the requirement / condition is not justifiable; and*
 - (iii) *the requirement/ condition is to the disadvantage of the person because he/she cannot comply with it**(“indirect discrimination”).*

Section 4(2) goes on to provide that:

“For the purpose of [section 4(1) (b) (ii)], a requirement or condition is justifiable if it serves a legitimate objective and bears a rational and proportionate connection to the objective.”

For example, the employer imposes a requirement that all security guards need to be proficient in written Chinese. A considerably smaller proportion of South Asians can comply with this requirement, when compared with the Chinese population. The requirement is arguably unjustifiable as it is not a skill that is necessary for a security guard in order for him / her to properly discharge his / her duties. Therefore, such a requirement is a form of indirect discrimination towards South Asians as they are less likely to be able to comply with this requirement.

The Employment Context

In the context of employment specifically, sections 10(1) and 10(2) of the RDO provide safeguards against discrimination.

Section 10(1) applies to people who are in the process of seeking employment. It prohibits any potential employer from discriminating against a person with respect to any of the following:

- (a) the recruitment, interview or screening process;
- (b) the terms of employment offered; or
- (c) the refusal to offer employment.

Section 10(2) applies to people who are already employed. It prohibits an employer from discriminating against an employee with respect to any of the following:

- (a) terms of employment afforded to the employee, including working conditions;
- (b) access to opportunities for promotion, transfer or training, and other benefits; or
- (c) dismissal of the employee, or other acts that are detrimental to the employee.

On the face of it, the prohibitions are in fact quite broad: they cover both direct and indirect discrimination, targeting the recruitment process by guaranteeing fair recruitment procedures and by requiring that terms of employment and opportunities for promotion be fair and equally accessible. Also, for the purposes of establishing liability for direct and indirect discrimination, it is irrelevant whether or not the discriminator had any intention to discriminate.¹² However, the rule against discrimination is subject to broad exceptions which expose the weaknesses inherent in the RDO.

The Exceptions to the Rule in the Employment Context

There are a number of exceptions which would render what is an otherwise a discriminatory act, lawful. These include:

- (i) Being of a particular racial group is a genuine occupational qualification (section 11);
- (ii) The purpose of the employment is to provide training in skills to be used outside Hong Kong; (section 12)
- (iii) The employment of persons from outside Hong Kong with special skills, knowledge or experience not readily available in Hong Kong (section 13);
- (iv) The employment of persons on local and overseas employment terms (section 14);
- (v) Employment for organised religion where the employment is limited to a particular racial group so as to comply with the relevant religious doctrines (section 23);
- (vi) Any act to set aside or allocate a cemetery, crematorium or columbarium for deceased persons belonging to a particular racial group (section 32); and

- (vii) Special measures aimed at affording persons of a particular racial group equal opportunities (section 49) (also referred to as ‘positive discrimination’ or ‘affirmative action’ in other literature).¹³

The genuine occupational qualification is a defence often relied upon by employers. Section 11(2) of the RDO lays down 5 specific examples of what amounts to a genuine occupational qualification:

Reasons of authenticity

- (a) the job involves participation in a dramatic performance or other entertainment where persons of a particular race is required for authenticity; or
- (b) the job involves participation as an artist’s or photographic model in the production of artistic work or visual images where persons of a particular race is required for authenticity; or
- (c) the job involves the serving of food or drink in a particular setting where persons of a particular racial group is required for authenticity.

Provision of Personal Services

- (d) the job holder provides persons of a particular racial group with personal services promoting their welfare, and those services can most effectively be provided by a person of that racial group; or
- (e) the job involves providing persons of that racial group with personal services that requires familiarity with the language, culture and customs or sensitivity to the needs of that racial group, and those services can most effectively be provided by a person of that racial group.

However, these exceptions are drafted very broadly, giving employers considerable leeway to justify an otherwise unlawful, discriminatory act.

For instance, one ethnic minority male reported that he was asked to read a difficult Chinese passage when interviewing for the post of a light-van delivery driver, and was turned down for the job because he failed the test. The Hong Kong Council for Social Service (“HKCSS”) pointed out that even if a complaint was lodged with the EOC, it would have been very difficult to establish liability for racial discrimination since the employer could attempt to rely on the genuine occupational qualification under the RDO stating that the driver must be able to read delivery addresses in Chinese as this was an important part of the job.¹⁴

However, the applicant was an experienced delivery driver who found no difficulty in carrying out his duties in the past despite his limited skills in reading Chinese. He relied at times on the help of his son or his friends and was able to deliver to the correct addresses even when they were written in Chinese. This shows that, whilst excellent skills in writing and reading Chinese might not be a *necessary* criterion for the position of a delivery driver, an employer may still rely on it as a genuine occupational qualification under the RDO.¹⁵

In 2013, the United Nations Human Rights Committee expressed concern over the discrimination faced by non-Chinese speaking residents in the context of employment opportunities due to the requirement of written Chinese language skills, imposed as a prerequisite even for manual jobs.¹⁶ In the words of the United Nations Human Rights Committee¹⁷:

“The Committee ... notes with concern the report of the Equal Opportunities Commission that non-Chinese speaking migrants face discrimination and prejudice in employment due to the requirement of written Chinese language skills, even for manual jobs (article 26).”

Human Rights Committee, 2013

While the RDO prohibits the requirement of a particular language being imposed as a form of indirect racial discrimination unless the hiring party can demonstrate that proficiency in that language is a genuine occupational need, over the past six years, there have only been 72 complaints lodged to the EOC in respect of employment-related matters under the RDO¹⁸ and there has been little done to educate and incentivise prospective employers to bring themselves in line with the law. There is only a Code of Practice on Employment under the RDO which offers guidance to employers but, being purely administrative in nature as opposed to having any statutory effect, these guidelines are often ignored and are ineffective to protect the interests of ethnic minorities despite blatant flouting of the rule.

Ethnic minority job seekers revealed that whilst they usually encountered no difficulty in telephone interviews given their fluent spoken Cantonese, when they met the employer in person, the employer would put up excuses to turn them down.¹⁹ Again, due to the broad nature of the exception, employers often justified their acts by relying on the genuine occupational qualification requirement making it difficult to scrutinise whether the alleged occupational need is genuine or not and whether it is being used as a cloak to mask racial discrimination.

In the United Kingdom, the courts have interpreted the genuine occupational qualification narrowly, holding that the qualification would not apply to *managerial or administrative positions* in the context of provision of services promoting the welfare of a certain racial group.²⁰ A narrow interpretation to the qualification will no doubt favour claimants, but it remains to be seen whether the Hong Kong courts will adopt the same approach as the UK courts.

(ii) Discrimination on the ground of race of near relative

Section 5 of the RDO extends the prohibition against discrimination to include a situation where someone is discriminated against on the basis of the race of a near relative. Under the RDO, “near relative” includes (a) a spouse; (b) a parent; (c) a child; (d) a brother or sister; (e) a grandparent and (f) a grandchild. Thus, for example, it would be unlawful not to allow an employee to attend a function on the basis that his/her spouse is not Chinese.

(iii) Racial harassment

Racial harassment takes two forms:

- (i) *Engaging in unwelcome conduct on the ground of race:*
When a person engages in unwelcome conduct on the ground of a person's race in circumstances in which a reasonable person would anticipate that the target of such conduct would be offended, humiliated or intimidated.²¹ An example would be engaging in name calling, which people of certain racial groups may find offensive or impolite; or the use of a disparaging or offensive tone when communicating with particular people of their race.²²
- (ii) *Creating a hostile or intimidating environment for a person because of his / her race:*²³
This provision covers unlawful harassment even where the behaviour is not directed at a particular person but at a racial group more generally. Thus, for example, display of graffiti or slogans or other objects offensive to particular racial groups would be caught within this subsection.²⁴

(iv) Racial vilification

Any activity which incites hatred towards, serious contempt for, or severe ridicule of another person or members of a class of persons on the ground of race in public amounts to racial vilification.²⁵ It is irrelevant whether any person is actually incited to hatred, serious contempt or severe ridicule towards such person(s) by the activity intended to have that effect.

Where any such activity involves the threat of physical harm or the incitement of others to threaten physical harm towards a person or his/her property and/or members of his/her class or the property to which they have access,²⁶ it constitutes an offence of serious vilification, the maximum punishment for which is a fine of HK\$100000²⁷ and imprisonment for 2 years.

(v) Discrimination by way of victimisation

Pursuant to section 6(a) of the RDO, discrimination by way of victimisation occurs when a person is targeted for less favourable treatment when he or she has:

- (i) *brought proceedings against the discriminator under the [RDO];*
- (ii) *given evidence or information against the discriminator in connection with RDO proceedings;*
- (iii) *otherwise done anything against the discriminator in relation to the RDO; or*
- (iv) *alleged that the discriminator has committed an act that violates the RDO.*

The rule extends to cases where even though the victim or person acting on behalf of the victim has not taken any of the steps described above, the discriminator knows or suspects that the person intends to or has already carried out these acts under the RDO.²⁸

Thus, theoretically, an employee who suspects that he has a claim under the RDO will be protected if he intends to make a complaint to the EOC, takes legal action, acts or asks a colleague to act as witness in a discrimination claim or helps another person lodge a complaint or claim.

The purpose of provisions on victimisation is to protect victims of racial discrimination or those assisting such victims from possible backlash or unfavourable consequences in the workplace, where the discriminator faces a potential complaint. Whether in practice, the employee will feel comfortable taking such action despite these protections, is however another matter. The problem is even more acute in the context of the provision of goods and services, where a limited or small market of providers for the desired products or services may make it difficult or undesirable for victims to pursue complaints and risk retaliation or backlash. Particularly in an environment where discrimination is rife, and employment and educational opportunities are hard to come by, complaints are seldom filed due to fear of backlash and the consequences. Indeed, the numbers of complaints lodged with the EOC under the RDO and how they compare with the complaints filed under the other anti-discrimination ordinances are demonstrative of the weak framework of the RDO, the concerns against backlash on the part of victims and complainants and the general lack of awareness of these protections against racial discrimination on the part of relevant stakeholders.

Table 1 Total Number of Complaints Lodged with the Equal Opportunities Commission in the Period between January 2009 and June 2014 under the Four Anti-Discrimination Ordinances.

Ordinance	Total Number of Complaints Lodged January 2009 – June 2014
Sex Discrimination Ordinance	2029
Family Status Discrimination Ordinance	187
Disability Discrimination Ordinance	3153
Race Discrimination Ordinance	282

Source: Equal Opportunities Commission, Statistics on Enquiries & Complaints²⁹

A5. Code of Practice on Employment under the RDO

The Code of Practice on Employment under the RDO (“COP”) came into operation on 10 July 2009. As a set of guidelines prepared and issued by the EOC, it aims at explaining how the RDO protects people against racial discrimination in employment-related matters.

The COP does not have the status of law. It is a set of guidelines intended to provide recommendations for good employment procedures and practice in light of the provisions of the RDO. Although the COP is not legally enforceable, it is admissible in evidence in court to determine questions arising from proceedings under the RDO.³⁰

The COP also outlines useful examples and illustrations to demonstrate the scope and effect of the RDO provisions and to assist employers in ensuring compliance with the legal provisions and to help outline their obligations.

In response to calls from concern groups, the EOC translated the Code into six of the main ethnic minority languages in Hong Kong (Nepali, Hindi, Urdu, Tagalog, Thai and Bahasa). However, despite such translation, the COP is not widely disseminated, which leaves many ethnic minorities unaware of the COP and their rights under the RDO.

A6. EOC's Guidelines on Racial Equality and School Uniform

The EOC published a guide on “Racial Equality and School Uniform” (the “School Uniform Guide”) in 2014 with the aim of providing guidance to schools in devising uniform policies that accord with principles of equality for all.³¹ Although religious discrimination is not included within the purview of the RDO, racial identities are intricately linked with certain religions and thus, discriminating on grounds of religion or religious practice could potentially amount to a form of indirect discrimination.

The School Uniform Guide recognises that some cultures and religions require conformity with specific dress codes impacting members of various racial groups, whose attire may deviate from the school’s uniform code. While the School Uniform Guide emphasises the importance of respecting a student’s right to dress in conformity with their culture or religion, this right needs to be balanced with other rights and interests and therefore, this right can be restricted in appropriate circumstances to achieve legitimate purposes, such as:

- (i) to contribute to school identity and solidarity;
- (ii) to promote positive behaviour and discipline;
- (iii) to maintain health and safety; and
- (iv) to ensure social interaction and participation in activities.

While the idea behind introducing the School Uniform Guide, which advised schools to take into account the cultural, racial and religious practices of its student body, is to be welcomed, it has been criticised. For example, Hong Kong Unison has argued the School Uniform Guide only contains vague general principles, and lacks guidance on how schools should balance different rights and how much consultation is necessary before devising a uniform policy. Moreover, the guide itself was published without sufficient consultation with schools and concern groups representing key stakeholders affected by the School Uniform Guide. Similarly, parents have complained that they were not consulted before such an important set of guidelines that potentially impacts them more than any other groups was implemented.³² These concerns reflect a desire among the ethnic minority community to be heard on these issues since they impact them directly.

This unfortunately casts a shadow over its relevance and legitimacy, although the EOC’s vision for the guidelines is that they serve as a general starting point to ensure that relevant considerations are borne in mind in the development and implementation of school uniform policies. The EOC recognises the difficulties of developing more concrete guidelines given the various situations that may potentially arise involving different groups’ needs, including liberal and conservative members from the same groups. The key therefore, is to cultivate suitable mechanisms for consultation and respectful dialogue with stakeholders to achieve consensus. Recent controversies surrounding the segregated schooling arrangements for Pakistani girls at a local secondary school³³ highlight the indispensable role of consultation with ethnic minority groups in educating them about the rights of all children and how to reconcile any conflicts between the protected and equal rights of all children and their cultural or religious values and expectations.

After all, uniform policies are complex decisions that need to be grounded in actual practices and must be careful to avoid drawing on broad generalisations, assumptions and stereotypes about people who wear the *shalwar kameez*, a headscarf or a veil. It is noteworthy that UK politician Jack Straw had previously commented that he would prefer Muslim women not to wear the veil which covers the face because it could make community relations more difficult. His comments were criticised as appalling and discriminatory.³⁴ His comments were seen as fuelling the stereotype of Muslim women who veil as isolated or closed off from the community and difficult to communicate with.³⁵ The EOC's School Uniform Guide's outright recommendation against articles covering pupils' faces in schools may be sending a similar message, that wearing a veil in and of itself hampers communication and interaction. Unfortunately, this subjects the already vulnerable and misunderstood community of Muslim women and girls to further negative stereotyping.

This adverse remark not only prejudices how school-going girls who opt to veil or are required to do so for religious or cultural reasons would be perceived by the rest of their peers and teachers but also has important implications for mothers of the girls concerned. They may likewise be misunderstood or seen as 'difficult to communicate with' by teachers. Unfortunately, the School Uniform Guide missed a crucial opportunity to improve understanding about face-coverings. Instead, it has perpetuated a particular stereotype that has become rampant in Europe (that face coverings hamper social interaction, which is to be particularly discouraged in the school setting). The intricate issues that parents, teachers and school-going Muslim girls deal with as a community and the anxieties misunderstanding can cause are aptly highlighted by the *R (on the application of Begum) v Head Teachers and Governors of Denbigh High School* case in the United Kingdom.³⁶ A more nuanced approach to understanding the different layers of complexity underlying acceptable forms of dress in the context of schools, is therefore, essential.

B. ENFORCEMENT UNDER THE RDO AND REMEDIES

District Court

Anyone discriminated against or harassed on grounds of race may bring proceedings in the District Court to seek remedies within 24 months from the time the incident occurred. Once this period of 24 months has lapsed, no claim can be brought for the conduct complained of as it would be time-barred.

In the event of a finding of racial discrimination, harassment, vilification or victimisation, the Court may³⁷:

- (i) make a declaration that the respondent has engaged in conduct or committed an act which is unlawful under the RDO and order that the respondent not repeat such conduct or act;
- (ii) order the respondent to perform any reasonable act to redress any loss or damage suffered by the claimant; for example, order the respondent to employ or re-employ the claimant;
- (iii) order the respondent to promote the claimant;

- (iv) order the respondent to pay damages to the claimant by way of compensation for any loss or damage suffered by reason of the respondent's conduct or act;
- (v) order the respondent to pay punitive or exemplary damages to the claimant; and
- (vi) make an order declaring void, in whole or in part, any contract or agreement made in contravention of the RDO.

Although the intent of an alleged discriminator is irrelevant when determining whether direct or indirect discrimination has occurred, any such motive will be relevant to the question of compensation and will impact the damages to be awarded for indirect discrimination under the RDO.

Specifically, if a respondent proves that he had no intention to treat the claimant less favourably than others when applying a discriminatory requirement or condition, then the court cannot award any damages.³⁸ This could have the effect of reducing a claimant's incentive to pursue his/her case.³⁹

EOC

An alternative to legal proceedings is to lodge a complaint with the EOC for investigation and conciliation within 12 months from the time of the incident. Once this period of 12 months has lapsed, no complaint can be lodged regarding the conduct complained of because it would be time-barred.

When a complaint is lodged with the EOC, the EOC will first investigate the complaint and determine whether settlement by way of conciliation is possible. Conciliation is the primary objective of the EOC's complaint-handling process, whereby the parties involved are free to decide if and how they want to resolve the dispute outside of the court process. This is a less formal, cheaper and faster way of resolving issues when compared to legal proceedings.⁴⁰

However, no party is forced to reach an agreement during the conciliation stage. Moreover, the time during which EOC investigates the complaint and attempts conciliation will not count towards the 24-month time limit for bringing an action in court. If no settlement is reached, the aggrieved party may apply for assistance from the EOC to take legal action. Whether the EOC will grant assistance to the complainant to pursue an action in court depends on a wide range of factors. As a last resort, legal aid may also be sought from the Legal Aid Department as in all proceedings if the EOC decides not to assist. It is worth noting that to date, there have been only 9 applications for legal assistance in relation to cases invoking the RDO, and only 3 of them were granted. Furthermore, the EOC has not taken any legal action in these 3 cases.

In general, advocates and NGOs working with ethnic minorities have been of the view that EOC needs to adopt a more proactive approach to tackling racial discrimination in the community more effectively. Although the EOC has focused its attention on spheres in which ethnic minorities experience discrimination, including education and employment, and it does not miss any opportunity to condemn discrimination, vilifying conduct or harassment of ethnic minorities, given its extensive powers, much more needs to be done. There is a need to raise awareness among the key stakeholder groups and more importantly, to take follow up

action in cases of serious violations, especially where the discriminatory treatment is endemic or systemic.

So far, this is the position of the EOC on emergent issues involving discrimination in the education sector:

The EOC published a working report in 2011 commenting that the standard Chinese requirements in public examinations and the choice of designated schools are potentially discriminatory under the RDO. However, no investigative or legal action has been taken by the EOC to date to target the relevant policies.⁴¹

While the EOC has openly accused the government of fostering segregation of ethnic minorities through its policies and that it was considering to launch a formal investigation against the Education Bureau, no further action has been taken.⁴²

The EOC's responses to media enquiries in relation to the gender and racial segregation issues in a public school raise serious concern - by saying that as long as segregation arrangements were put in place in accordance with the wishes of parents and students, the EOC implied that such segregation was unproblematic. This fails to recognise the importance of equality and that the best interests of children should always be a school's primary concern and that schools and parents need to work together to protect children's rights rather than agree on terms and policies that might have a detrimental impact on the best interests of children.

As regards the lack of support for the special learning needs of gifted Indian boy Arjun Singh, the EOC did not investigate why the Education Bureau failed to find a school for him in over two years. Instead, the then EOC Chair blamed his parents for withdrawing him from school in the first place.⁴⁴ This suggests the failure to appreciate the difficulties experienced by minorities within minority groups (a special needs, ethnic minority child). Singh's mother homeschooled her son in the period he was out of school. Moreover, the fact that no further investigation into or arrangements have been made to accommodate gifted non-Chinese speaking students in schools in Hong Kong belies the assumption that no ethnic minority students are gifted.

C. EFFECTIVENESS OF THE LAW: EXPERIENCE OF ETHNIC MINORITIES***C1. General Statistics*****In the 6 years since the enactment of the RDO:**

<i>Total number of applications for Legal Assistance:</i>	9
<i>Total number of applications granted Legal Assistance:</i>	3
<i>Total number of Legal Actions funded by EOC:</i>	0

The effectiveness of the existing legal framework is questionable. As a matter of statistics, to date only one legal action (*Singh Arjun v Secretary for Justice*) has been brought pursuant to the RDO as a private claim whereas there have been no actions brought under the RDO with legal assistance from the EOC.⁴⁵ Moreover, complaint investigations under the RDO are also evidently fewer compared to the figures for the SDO and DDO.⁴⁶

Table 2 EOC statistics on complaint investigation, application for legal assistance and legal actions taken for cases granted with legal assistance under the four anti-discrimination ordinances

Ordinance	SDO	DDO	FSDO	RDO
Complaint investigation (first 5 months of 2015)	142	243	18	44
Complaint investigation (2014)	267	403	30	42
Application for legal assistance (cumulative figures since 20/9/1996)	276	428	23	9
Legal actions taken for cases granted with legal assistance (cumulative figures since 20/9/1996)	35	44	5	0

Source: EOC Statistics on Enquires, Complaints and Legal Assistance for the period of 1.1.2015 to 31.5.2015 and 1.1.2015 to 31.12.2014.

The stark contrast between the numbers of complaints and legal actions assisted by the EOC under SDO and DDO on one hand, and the RDO on the other, indicates that the relevant stakeholders are unaware of their rights and the role of the EOC. It also suggests that there are inherent weaknesses in the provisions of the RDO that make it a less than useful device to bring claims for such discrimination.

C2. Challenges to Bringing Claims Under the RDO

Notwithstanding the general provision in section 3 of the RDO which states that “[the RDO] binds the Government,” there are in fact grey areas in the RDO which cast doubt as to whether certain governmental bodies, officers and their actions are subject to the RDO.

Section 27(1) prohibits any racial discrimination against a person in the course of the provision of goods, facilities or services in the public domain (including a section of the public). Section 27(2) lists examples of the relevant facilities and services referred to in section 27(1). One such example set out in section 27(2) (h) is the *services* of (i) any department of the Government; or (ii) any undertaking by or of the Government.

However, in the first racial discrimination case brought under the RDO, the respondent Secretary for Justice argued that the “investigation of criminal complaints, or the arrest, detention and delivery into custody persons suspected of an offence punishable by imprisonment” do not constitute the “provision of police *services*.” As such, the respondent argued that these acts of the police are not caught by section 27(2)(h) of RDO.

Whether the court will accept this argument at trial remains to be seen. Nevertheless, it is not hard to see that by limiting claims of racial discrimination against the Government to any ‘services’ of a Governmental department (section 27(2)(h)(i)) or ‘undertaking’ by or of the Government (section 27(2)(h)(ii)), many acts and decisions of the Government and its many officials acting in the course of duty will *prima facie* be read as outside section 27 and fail to afford an aggrieved person any recourse under the RDO.

Any such exemptions grossly undermine the effectiveness of the law, especially if the only parties bound by the provisions are private entities. Non-protection against public bodies’ conduct and unequal treatment in the provision of key services impedes equal protection of and access to basic rights which are constitutionally guaranteed. This is especially alarming and concerning because the structure of the RDO is at considerable odds with and different from the other three anti-discrimination statutes that precede it, where no such exemptions apply. Such exemptions send a message to the public that the rights of ethnic minorities are less important than those of the rest of the population and even compared to those who are targeted for other forms of discrimination.

This leaves ethnic minorities vulnerable to exploitation and oppression. The CERD Committee has criticised the RDO for being in contravention to the ICERD, the very Convention which it was enacted to ensure compliance with. As these criticisms and the figures quoted above show, there is much left to be desired before the RDO can be an effective tool against the type of discrimination it is intended to target.

The EOC launched the public consultation on the Discrimination Law Review in 2014 and a large volume of written submissions was received. One of the concerns raised is precisely the broad exemption by way of omitting to include a provision that provides for the application of RDO to the government’s performance of its functions or the exercise of its powers.

Such an omission is inconsistent with other anti-discrimination ordinances, for instance, s. 21 of the SDO provides that it is unlawful for the government to discriminate against a woman in the performance of its functions or the exercise of its powers.

In order to ensure that unjustifiable racial discriminatory acts by the government can be challenged, the broad exemption should be cured by way of including a provision equivalent to s. 21 of the SDO in the RDO.

C3. Nationality law and Immigration Legislation

As Chapter 2 on Language, Integration, Identity and Belonging of this Report reveals, ethnic minorities often face difficulties in their application for naturalisation as a Chinese national and the HKSAR passport. It would appear that immigration officials have routinely dissuaded applications from ethnic minorities in this rather opaque system.⁴⁷ Apart from the language hurdle (as explored further in Chapter 2 of this Report), others have their application rejected because neither of their parents or their relatives is a Chinese national. Jeffrey Andrews, who is an Indian social worker born in Hong Kong, reported that when he was trying to apply for Chinese citizenship in 2007, the officer told him that he had no chance of success if he had “no Chinese” in his blood.⁴⁸

Another example is Philip Khan, a businessman of Pakistani descent who was born and raised in Hong Kong and has lived here for 40 years. His uncle fought for Hong Kong during the Japanese internment. He failed to acquire Chinese nationality and therefore, a HKSAR passport, although his family came to the city nearly a century ago. He also voluntarily took an oath before the immigration officers that he would renounce his Pakistani passport so that he could apply for a Hong Kong passport. Despite these assurances, his application was refused. This refusal has had a further detrimental effect on him – he wanted to run in the Legislative Council elections that were due to be held soon after the time he applied for naturalisation. However, he was ineligible to run for elections because he was not a Chinese national.⁴⁹

There is also the recently reported case of Professor Kamta, an Indian national, who has resided in Hong Kong for 23 years and Assistant Dean of the Faculty of Medicine at the Chinese University of Hong Kong. His application for naturalisation was also refused.⁵⁰

Since sections 54 and 55 of the RDO expressly exclude nationality law and immigration legislation from its purview, legally speaking there is nothing unsuccessful applicants can do to fight for equal treatment in the processing of claims for naturalisation as Chinese nationals or to be considered on equal terms for the HKSAR passport. In this manner, ethnic minorities face indirect burdens impacting their ease of international mobility (the HKSAR passport enables visa-free access or visa-on-arrival to 152 countries or territories worldwide), ability to open bank accounts⁵¹ and receive favourable terms for financial products in banks to run their businesses effectively⁵² and most crucially, their equal right to stand for election as guaranteed under the Basic Law and Article 25 of the ICCPR.

D. OTHER GAPS IN THE LAW

D1. Indirect discrimination

The experience in the UK reveals considerable limitations as regards a claim for “indirect discrimination” under the RDO equivalent in the UK, the Race Relations Act.⁵³ For instance, UK courts have interpreted narrowly what constitutes a “requirement or condition”, requiring

the claimant to identify a policy that acts as an “absolute bar” to access some benefit or to hiring or promotion.⁵⁴

If the same approach were to be adopted in Hong Kong, it would make it very difficult for claimants to establish a successful claim of indirect discrimination. Absolute bars are very difficult to establish especially where the evidence that would facilitate such an inference would invariably be inaccessible to the complainant as only the discriminating party or entity would possess the relevant information regarding policy and its intended application.

D2. Discrimination on the ground of religion

Under the RDO, discrimination on the ground of religion is not prohibited. A claimant who feels that he/she has been so discriminated must link the basis of the unfavourable conduct or treatment to race in order to establish a claim. This appears to run contrary to both, the ICCPR and ICESCR, in which religion is expressly identified as a prohibited ground of discrimination.

Although some religious beliefs can be tied to particular racial groups and this group of persons could still rely on protection under the RDO by establishing race as a connected consideration in the discriminatory treatment, those whose religious beliefs do not have any connection with their ethnicity would have no protection under the RDO. They would need to rely on the broader principles of the HKBL and the BORO to seek equal protection under the law.

D3. Protective clauses for asylum seekers and refugees

Some ethnic minorities are asylum seekers or refugees who are treated as illegal immigrants by the government and therefore, not provided with any identity documents.⁵⁵ Such a group will be especially vulnerable to racial discrimination: without any legal status, they would be reluctant to contact public authorities to lodge a complaint for fear that they would be arrested or detained.

Children with refugee parents struggled with obtaining education due to the lack of identity documents (e.g. passport, identity card or even birth certificate), the lack of sufficient assistance to find school places for refugee children and language barrier⁵⁶. Entrance into university is particularly hard in light of the difficulties of obtaining a student visa on recognizance papers⁵⁷. Further, since refugees do not have the right to work and lack identity documents, they are vulnerable to exploitation where they work in unfavourable conditions, or even forced to work illegally or engage in drug dealing.

The RDO fails to provide any protective measures for this vulnerable group to ensure that they can freely assert their legal rights and have equal access to basic rights whilst in Hong Kong awaiting their claim for refugee status to be determined and to remedies against unlawful discrimination.

**E. THE IMPORTANCE OF PUBLIC EDUCATION AND RAISING AWARENESS IN
THE COMMUNITY**

Apart from building a robust legal framework to protect ethnic minorities against discrimination and to promote equal treatment, initiatives to inform ethnic minorities of their rights and a creating supportive environment in which they feel comfortable to voice out their concerns are equally important.

In 2008 (near the time when the RDO was due to be enacted), Caritas Hong Kong conducted a survey and found that 60% of the ethnic minority interviewees did not know about the Race Discrimination Bill.⁵⁸ This shows that there is a critical lack of education about ethnic minorities' rights among the stakeholders who are the intended beneficiaries of the RDO. In the same survey, 43% of the interviewees reported feeling discriminated against.

In 2010 (after the RDO came into force), Caritas conducted another survey amongst ethnic minorities and found that only 43% knew that Hong Kong had enacted the RDO.⁵⁹ This underscores the irony: the very stakeholder group who are the intended subjects of protection under the RDO lacked awareness of their rights under the statute. This presents itself as the foremost barrier to seeking help and asserting their legal rights, when they do not know they have such rights or what remedies they are entitled to for violations of these rights.

The unequal bargaining power between ethnic minorities and their employers and service providers in general, creates further difficulties. As Kapai observes, ethnic minorities who already have a hard time securing a job, are often reluctant to bring complaints to light as they must confront the offender and this would likely render them unable to obtain a job elsewhere either as they would be seen as troublemakers. She adds, "legislation is only one way to educate the community on the inappropriateness of race-based treatment that disadvantages minorities."⁶⁰ The government has yet to take other measures, for example in the form of public education, to raise awareness in the community to promote harmony and inclusion of people of different races. At the same time, however, as the discussion in this chapter shows, they cannot omit ethnic minorities from such public education campaigns. There continues to be fear of victimisation and backlash as well as fear of authority in general, rendering ethnic minorities reluctant to complain or bring legal action.

KEY OBSERVATIONS

Various international and domestic legislative instruments guarantee protections against discrimination. Nonetheless, discrimination is a part of life for many in Hong Kong. Indeed, although the law is typically used to lead social change and an evolution of community attitudes, in the case of the Race Discrimination Ordinance, the deeply divisive debate its introduction caused had the opposite effect and sent the message that discrimination is acceptable under some circumstances. Indeed, as Chapter 1 on Perceptions and Self-Perceptions of Ethnic Minorities of this Report shows, there are deeply prejudicial attitudes held against ethnic minorities. These operate to their detriment in everyday life and in important spheres where equality of treatment and access is key to quality of life and enjoyment of basic human rights.

Some discriminatory acts are rendered lawful under certain exclusions, including under religious grounds, employment for special skills and in cases where special measures are implemented to afford a particular group equal opportunities. Within the context of employment, the genuine occupational qualification is a defence often relied upon by employers, as the relevant provisions are drafted very broadly. As a result, some non-Chinese speakers have been discriminated against in recruitment for jobs that would not require this language to do the work well. Even where ethnic minorities are able to secure a job, they are hesitant to bring complaints against their employers as they fear being branded as ‘troublemakers’.

Discrimination can come about within other contexts as well, such as access to education for ethnic minorities. Although the School uniform Guide advises schools to take into account the cultural, racial and religious practices of its student body, it has been criticised for containing only vague general principles which are the battleground of discussion when it comes to implementation. There is also the *de facto* racial segregation of ethnic minority children that will be discussed in Chapter 3 on the Education of Ethnic Minorities.

An alternative to legal proceedings is to lodge a complaint with the EOC for investigation and conciliation within 12 months from the time of the incident. Once this period of 12 months has lapsed, no complaint can be lodged regarding the conduct complained of because it would be time-barred.

The effectiveness of the existing legal framework is questionable, as only one legal action as so far been brought pursuant to the RDO. There is an indication that the relevant stakeholders are unaware of their rights and the role of the EOC. Indeed, with the exemptions to the RDO that are in place, a message is sent to the public that the rights of ethnic minorities are less important than those of the rest of the population. For example, there are many cases where discrimination has been evident in the issuance of Hong Kong passports, which is exempted from the protections of the RDO. Similarly, discrimination on the ground of religion is not prohibited under the RDO.

There are no protections for refugees and asylum seekers under the RDO, and accordingly they do not have equal access to basic rights whilst in Hong Kong awaiting their claim to be determined or to remedies against unlawful discrimination.

RECOMMENDATIONS

1. Apart from legislation, there are numerous other measures that the government ought to take to enhance the visibility and integration of people of diverse backgrounds into the community. These measures should strive to foster equal respect for everyone's dignity and heritage, and to promote understanding, harmony, equality and social inclusion. These efforts should be complementary to legislative and other policies to ensure equality and non-discrimination across all spheres of life.
2. Uniform policies are complex decisions that need to be grounded in actual practices and must be careful to avoid drawing on broad generalisations, assumptions and stereotypes about people who wear the *shalwar kameez*, a headscarf or a veil. A consultation with concerned parent groups is essential.
3. Better education and information dissemination to raise awareness among members of the ethnic minority community as to their rights under the RDO and the role of the EOC. This requires culturally intelligent initiatives to inform ethnic minorities of their rights and creating a supportive environment in which they feel comfortable to voice out their concerns.
4. There is a need to build a robust legal framework to protect ethnic minorities against discrimination and to promote equal treatment. This requires a review of RDO to update it and strengthen it given its various weaknesses, in particular, to remove exemptions with respect to certain government acts. To broaden the scope of RDO to cover nationality and origin-based discrimination. Clarify that the perpetrator of the discrimination need not be of a different ethnic group.
5. Increased protections for refugees and asylum seekers, who do not have access to the documentation that would enable them to ensure their human rights are protected whilst their status is being determined in Hong Kong.
6. The courts must take a broad approach to 'indirect discrimination', as absolute bars would be very difficult to establish where evidence that would facilitate such an inference is inaccessible, which is likely to frequently be the case.
7. The EOC ought to utilise broad powers of investigation more readily and proactively with a view to identifying areas of pervasive discrimination on grounds of race and to make recommendations or bring a legal action to prompt appropriate reform of discriminatory law and / or policy.
8. Develop mandatory impact assessment guidelines that require a government department or minister to declare that a policy or law is in compliance with

human rights and equality and non-discrimination principles, including those enshrined in the RDO. This would ensure that all policy and law is mainstreamed to account for any potential impact and / or violations of rights of ethnic minorities and other vulnerable groups. This would also build into the framework of developing policy and introducing law, an important check to systematically root out sources of oversight, discrimination or prejudicial or adverse impact on minority groups and interests, paving the way for an equality of outcomes-based approach to policy development.

¹ Kelley Loper, 'Equality and Non-Discrimination' in Johannes Chan and Chin Leng Lim (eds), *The Law of the Hong Kong Constitution* (Sweet and Maxwell 2012).

² Indeed, the Government only began to take matters seriously when the calls of international treaty bodies were resounded by the business community in Hong Kong in early 2000s. Even then, it took nearly a decade for the legislation to be enacted.

³ See Home Affairs Bureau, Government of the Hong Kong Special Administrative Region, Legislative Council Brief: Race Discrimination Bill, 29 November 2006 (File Ref: HAB/CR/1/19/102).

⁴ For a detailed discussion of the gaps in the Bill and the potential consequences for groups and individuals facing discrimination on grounds of race, nationality, ethnicity and place of origin, see Carole Petersen, Hong Kong's Race Discrimination Bill: A Critique and Comparison with the Sex Discrimination and Disability Discrimination Ordinances, available at:

<https://www.law.hku.hk/ccpl/Docs/CarolePetersen-rev19June.pdf>, accessed 28 August 2015.

⁵ *Singh Arjun by His Next Friend Singh Anita Guruprit v Secretary for and on behalf of the Commissioner of Police and Another* [2014] HKEC 371 (District Court); [2014] 5 HKC 225 (Court of Appeal).

⁶ The details of the case and the proceedings are discussed in Chapter 8 on Crime and Law Enforcement of this Report.

⁷ Jennifer Ngo, 'Indian Christian man can't find burial place for his wife in Hong Kong' *South China Morning Post* (Hong Kong, 21 October 2013) <<http://www.scmp.com/news/hong-kong/article/1336221/indian-christian-man-cant-find-burial-place-his-wife-hong-kong?page=all>> accessed 4 August 2015.

⁸ Dennis Chong, 'NGO takes up case of prodigy's schooling' *South China Morning Post* (Hong Kong, 27 September 2011) <http://www.scmp.com/article/980256/ngo-takes-case-prodigys-schooling> accessed 4 August 2015. Indeed, the prodigy, who was not admitted to any of the local universities despite his genius, was admitted to read Physics at King's College London at the age of 14. See Bryan Harris, 'Hong Kong child prodigy gets special visa to study in Britain' *South China Morning Post* (Hong Kong, 9 September 2013) <<http://www.scmp.com/news/hong-kong/article/1306469/hong-kong-child-prodigy-gets-special-visa-study-britain>>, accessed 20 August 2015. In the *Singh Arjun* case (n 5), the teenager is also seeking damages for unlawful detention and false imprisonment because he was held for five and a half hours at the police station following his complaint of being assaulted by a female passenger when travelling on the Mass Transit Railway (MTR).

⁹ Committee on the Elimination of Racial Discrimination, 'Concluding observations of the Committee on the Elimination of Racial Discrimination 15th September 2009' *Committee on the Elimination of Racial Discrimination*, 15 September 2009) <<http://www.law.hku.hk/hrportal/wp-content/uploads/file/CERD2009.pdf>> accessed 5 August 2015.

¹⁰ The ICCPR was incorporated in Hong Kong in 1991 with the passing of The Hong Kong Bill of Rights Ordinance.

¹¹ Cap. 602, Laws of Hong Kong.

¹² See *Secretary for Justice and Others v Chan Wah and Others* [2000] 3 HKLRD 641 [54], albeit in the context of the Sex Discrimination Ordinance. See also Kelley Loper, 'Discrimination Law' in Rick Glofcheski and Farzana Aslam (eds), *Employment Law and Practice in Hong Kong* (Sweet & Maxwell 2010).

¹³ Temporary special measures are indeed one of the key 'remedies' that are recognised in various international treaties, including the CERD Convention (Article 4(1)), as a means to address the negative and detrimental effects of past discrimination and prejudice suffered by racial minorities, recognizing that generations of discrimination have set particular groups far behind. Even with equal access and rights today,

the provision recognises that these measures alone are insufficient to achieve substantive equality to level the playing field in terms of access to opportunities.

¹⁴ Hong Kong Council of Social Service, ‘少數族裔在香港’ (*Hong Kong Council of Social Service*, October 2013) <<http://www.hkcss.org.hk/uploadFileMgmt/pb15.pdf>> accessed 5 August 2015.

¹⁵ *ibid.*

¹⁶ Hearing of the United Nations Human Rights Committee on the Third Report of the Hong Kong Special Administrative Region in the light of the International Covenant on Civil and Political Rights, LC Paper No CB(2)1117/12-13(01), para 22: see <<http://www.legco.gov.hk/yr12-13/english/panels/ca/papers/ca0520cb2-1117-1-e.pdf>> accessed 5 August 2015.

¹⁷ *ibid.*

¹⁸ See Equal Opportunities Commission, Statistics on Enquiries & Complaint (*Equal Opportunities Commission* <<http://www.eoc.org.hk/eoc/graphicsfolder/inforcenter/papers/statisticlist.aspx>> accessed 23 July 2015).

¹⁹ Hong Kong Council of Social Service, ‘少數族裔在香港’ (n 14). Indeed, a Sikh man whose appointment for the position of a teacher at a local primary school was confirmed over the phone was advised that there was some miscommunication and that the post had already been filled when he showed up for his first day of work wearing his turban and beard. An administrative staff member later advised him that he was turned away because the senior management were worried that his turban would ‘scare’ the school children given the negative connotations that the attire had acquired post-9/11 (referencing the terror attacks on US soil in September 2001).

²⁰ *Lambeth LBC v Commission for Racial Equality* [1989] IRLR 379. See Loper, ‘Discrimination Law (n 12) 157.

²¹ RDO (n 11), s 7(1).

²² See example on EOC website: Equal Opportunities Commission, ‘Race Discrimination Ordinance and I’ (*Equal Opportunities Commission*, 2009) <<http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=race%20discrimination%20ordinance%20and%20i#6>> accessed 24 July 2015.

²³ RDO (n 11), s 7(2).

²⁴ *ibid.*

²⁵ RDO (n 11), s 45.

²⁶ RDO (n 11), s 46.

²⁷ See Criminal Procedure Ordinance (Cap 221), s 8.

²⁸ RDO (n 11), s 6(b).

²⁹ EOC website: Equal Opportunities Commission, ‘Race Discrimination Ordinance and I’ (*Equal Opportunities Commission*, 2009) <<http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=race%20discrimination%20ordinance%20and%20i#6>> accessed 24 July 2015.

³⁰ RDO (n 11), s 63(14). See Race Discrimination Ordinance Code of Employment, p 5: Equal Opportunities Commission, ‘Code of Practice on Employment under the Race Discrimination Ordinance’ (*Equal Opportunities Commission*, July 2009) <http://www.eoc.org.hk/eoc/Upload/UserFiles/File/rdo/RDO_CoP_Eng.pdf> accessed 3 August 2014.

³¹ See Equal Opportunities Commission, ‘Racial Equality and School Uniform Guide’ (*Equal Opportunities Commission*, 6 June 2014) <http://www.eoc.org.hk/eoc/Upload/booklets/schoolUniform/2014_02.pdf> accessed 4 August 2015.

³² Katelyn Chan, ‘Equality has a long way to go in schools in Hong Kong’ *South China Morning Post* (Hong Kong, 21 July 2014) <<http://www.scmp.com/lifestyle/family-education/article/1556161/equality-schools-has-long-way-go-hong-kong>> accessed 20 August 2015.

³³ 蘋果日報, “平機會推《校服指引》 學生穿著設限涉歧視” (Hong Kong, 7 June 2014) <<http://hk.apple.nextmedia.com/news/art/20140607/18748591>> accessed 20 July 2015.

³⁴ BBC News, “Remove full veils’ urges Straw” (London, 6 October 2014) <http://news.bbc.co.uk/2/hi/uk_news/5411954.stm> accessed 5 August 2015.

³⁵ A similar message was unfortunately echoed in the dissenting judgment of the Supreme Court of Canada in *R v NS* [2012] 3 SCR 726 <<http://canlii.ca/t/fvbr>> accessed 26 June 2015 and the more recent English case *The Queen v D (R)* [2013] EW Misc 13 <<https://www.judiciary.gov.uk/judgments/thequeenvd/>> accessed 26 June 2015.

³⁶ [2006] UKHL 15.

³⁷ See Loper, 'Discrimination Law' (n 12).

³⁸ RDO (n 11), s 70(6). See Loper, 'Discrimination Law' (n 12).

³⁹ C J Petersen, 'Equal Opportunities: A New Area of Law for Hong Kong' in Raymond Wacks (ed), *The New Legal Order in Hong Kong* (Hong Kong University Press 1999) 601.

⁴⁰ Race Discrimination Ordinance Code of Employment (n 30), para 7.2.10.

⁴¹ Equal Opportunities Commission, 'Report on the Working Group on Education for Ethnic Minorities' (*Equal Opportunities Commission*, 11 July 2011) <<http://www.eoc.org.hk/eoc/Upload/UserFiles/File/EducationReportE.pdf>> accessed 6 August 2015.

⁴² Stuart Lau, 'Equal Opportunities Commission may probe schooling for ethnic minorities' *South China Morning Post* (Hong Kong, 24 September 2013) <<http://www.scmp.com/news/hong-kong/article/1316339/equal-opportunities-commission-may-probe-schooling-ethnic-minorities>> accessed 5 August 2015.

⁴³ Dr York Chow, the chairman of the EOC said, "We also need more awareness and sensitivity from all parties, including educators and parents, to build truly caring schools and enable all students to benefit from a diverse learning environment." See York Chow, 'Ghetto treatment blocks advance of Hong Kong's ethnic minority students,' *South China Morning Post* (Hong Kong, 26 September 2013).

⁴⁴ Dennis Chong, 'NGO takes up case of prodigy's schooling' (n 8).

⁴⁵ *Singh Arjun* (n 5) is the first case to test the application of the Race Discrimination Ordinance (Cap 602) to a government body in the exercise of its powers and functions.

⁴⁶ Equal Opportunities Commission, 'Statistics on Enquiries' (*Equal Opportunities Commission*, 2014) <<http://www.eoc.org.hk/EOC/GraphicsFolder/InforCenter/Papers/StatisticContent.aspx?ItemID=12118>> accessed 18 July 2015.

⁴⁷ *South China Morning Post*, 'Chinese Nationality scheme should be more open to ethnic minorities' *South China Morning Post* (Hong Kong, 18 August 2012). See Chapter 2 on Language, Integration, Identity and Belonging of this Report for further details.

⁴⁸ Joanna Chiu, 'Ethnic minorities make joint application for Chinese citizenship' *South China Morning Post* (Hong Kong, 12 May 2013) <<http://www.scmp.com/news/hong-kong/article/1226242/ethnic-minorities-make-joint-application-chinese-citizenship>> accessed 5 August 2015.

⁴⁹ Simpson Cheung, 'Businessman born in HK can't be naturalized' *South China Morning Post* (Hong Kong, 13 August 2012). The Legislative Council Ordinance states that an elector for a geographical constituency must be a Chinese national. See Section 37 (1)(e), Legislative Council Ordinance (Cap. 542), The Laws of Hong Kong.

⁵⁰ John Carney, Figures Reveal that Thousands from Ethnic Minority Groups have Won Naturalisation, *South China Morning Post* (Hong Kong, 16 December 2012) <<http://www.scmp.com/news/hong-kong/article/1106498/figures-reveal-thousands-ethnic-minorities-have-won-naturalisation>> accessed 20 August 2015.

⁵¹ Lana Lam, 'Hong Kong's equalities watchdog for first time tackles banks' treatment of ethnic minorities' *South China Morning Post* (Hong Kong, 30 May 2015) <<http://www.scmp.com/news/hong-kong/education-community/article/1813049/hong-kongs-equalities-watchdog-meet-bank-staff>> accessed 20 July 2015.

⁵² Note Khan Khalid Mohmood's comments on running a business as an ethnic minority in Hong Kong and the impact of the knowledge of the Chinese language on running his business independently in Alan Yu, 'Pakistani in Hong Kong could run his business 100pc – if only he was made to learn Chinese in school' *South China Morning Post* (Hong Kong, 8 July 2015) <<http://www.scmp.com/news/hong-kong/education-community/article/1834408/pakistani-hong-kong-could-run-his-business-100pc>> accessed 4 August 2015. Businesses need bank loans to act as a buffer at times and to run operations, particularly, in the start-up phases. However, as reported, many ethnic minorities do not even consider this option, because they expect to be discriminated against by banks.

⁵³ Kelley Loper, "One Step Forward, Two Steps Back?" (2008) *Hong Kong Law Journal* 15.

⁵⁴ See *Perera v Civil Service Commission* (No 2) [1983] ICR 428, *Meer v London Borough of Tower Hamlets* [1988] IRLR 399. See also, Loper (see above) 20, 22. See also, Hong Kong Human Rights Commission Society for Community Organization, Views on the Race Discrimination Bill, LC Paper No CB(2)1168/06-07(01), p 8: <<http://www.legco.gov.hk/yr06-07/english/bc/bc52/papers/bc520303cb2-1168-1-e.pdf>> accessed 5 August 2015.

⁵⁵ Views on the Race Discrimination Bill (see *ibid*), p 7.

⁵⁶ Raquel Carvalho, 'HK parents of refugee children face hurdles to get them an education' *South China Morning Post* (Hong Kong, 12 July 2015) <<http://www.scmp.com/news/hong-kong/education-community/article/1837307/hk-parents-refugee-children-face-hurdles-get-them>> accessed 8 July 2015.

⁵⁷ Raquel Carvalho, 'Lack of Hong Kong ID Card means isolation and education limbo' *South China Morning Post* (Hong Kong, 12 July 2015) <<http://www.scmp.com/news/hong-kong/education-community/article/1837308/lack-hong-kong-id-card-means-isolation-and>> accessed 8 July 2015.

⁵⁸ 2008 Caritas Survey on RDB.

⁵⁹ 2010 Caritas – SA Employment Situation p.16

⁶⁰ SCMP, "Chinese Nationality scheme should be more open to ethnic minorities" (see n 47).

KEY DEMOGRAPHIC DATA

DATA SOURCES

The Hong Kong SAR Government, since 1961, through the Census and Statistics Department (“CSD”), has conducted a Population Census every 10 years and a by-census once in the middle of those 10-year periods. The most recent Hong Kong Population Census (Census) was conducted in 2011. In that Census, Hong Kong people were asked about their ethnicity. We use this data and extrapolations through the CSD’s interactive statistics platform¹ (data could be cross tabulated across different variables) in various parts of this report on The Status of Ethnic Minorities in Hong Kong.

Some of the data was obtained through access to information requests filed with various government departments. Where these figures were made available, they have been included to provide richer insights into the circumstances of ethnic minorities. However, in many instances, unfortunately, government departments reported that they do not maintain such data disaggregated by ethnic group. Where this is the case, we have said so in the chapters concerned. This is an important data gap, which is discussed in the Key Observations and Recommendations Chapter of this Report.

The data in this Report is generally presented either in this Key Demographic Data Chapter or in the individual chapters to which the data more specifically pertains. Some of the data is pertinent to multiple chapters. Where this is the case, the data is accordingly drawn on in multiple chapters to aid discussion without the reader having to flip back and forth between this Key Demographic Data chapter and the others. The purpose of this particular chapter is to provide the reader with a broad overview of the general situation and attributes of ethnic minorities in Hong Kong, including their internal population distribution by ethnicities, sex, age, educational attainment, employment, marriage, poverty and crime.

Given the richness of the data presented in the Census and the impossibility of including everything in a report such as this, we have thought hard about what data to include. Our guiding philosophy has been to present data that we think is critical to understanding the State of Ethnic Minorities in Hong Kong today - in 2015.

We encourage readers to use the CSD’s interactive statistics website to extrapolate additional data on ethnic minorities that they are interested in obtaining.

It should also be noted that there is various missing data that can only be accessed with a fee by using CSD’s cross tabulation service, either through access at the self-help work stations provided at the CSD’s offices or by asking them to generate the relevant tables for us. The process for obtaining such data through the use of the self-help stations requires technical expertise in the coding software utilized at the CSD’s self-help stations. Although it is possible to request the CSD to run such cross tabulations, they provide this service at a fee. For the purposes of this Report, pursuing such a course was not possible due to funding constraints.

The definition of ethnicity used by the Hong Kong Census and Statistics Department is as follows:

“The ethnicity of a person is determined by self-identification. The classification of ethnicity is determined with reference to a combination of concepts such as cultural origins, nationality, colour and language. This practice is in line with the recommendations promulgated by the United Nations in 2008, and has taken into account the practices of other countries as well as local circumstances. In Hong Kong, a significant proportion of the population is Chinese, and among the non-Chinese, Asians account for the majority. Therefore, there are more Asian related ethnic groups in the classification.”

A. THE ETHNIC MINORITY POPULATION OF HONG KONG

A1. Total Population of Hong Kong by Ethnicity

Hong Kong’s non - ethnic Chinese population represents 6.4% of the whole population (Table 1).²

Table 1. Total Population of Hong Kong, in 2001, 2006 and 2011

Year	2001		2006		2011	
	No.	%	No.	%	No.	%
Chinese	6,364,439	94.87	6,522,148	95.01	6,620,393	93.62
Ethnic Minorities	343,950	5.13	342,198	4.99	451,183	6.38
Total Population	6,708,389	100	6,864,346	100	7,071,576	100

Source: Calculated from numbers generated through the Census and Statistics Department Interactive Data Dissemination Service

A2. Breakdown of Total Ethnic Minority Population in in 2001, 2006 and 2011³

Taking into account all ethnic minorities in Hong Kong, including foreign domestic helpers (“FDHs”), the largest ethnic minority populations are the Indonesians and Filipinos. (Table 2). These populations combined are greater than the total number of other ethnic minority populations in Hong Kong.

As shown in Table 2 below, the total number of ethnic minorities increased by 31.2% from 2001 to 2011. In particular, the largest increase in population was found in the Indonesian and Pakistani population, where the figure increased substantially by 164.1% and 63.8% respectively. Since the figures include foreign domestic helpers, the significant increase in the Indonesian population is likely attributed to a significant increase in the number of Indonesian domestic helpers from 2001 to 2011.

**Table 2. Total Population of Hong Kong by ethnicity in 2001, 2006 and 2011
(including FDHs)**

Ethnicity	2001	2006	2011
Indonesian	50,494	87,840	133,377
Filipino	142,556	112,453	133,018
Indian	18,543	20,444	28,616
Pakistani	11,017	11,111	18,042
Nepalese	12,564	15,950	16,518
Japanese	14 180	13 189	12 580
Thai	14 342	11 900	11 213
Korean	5 263	4 812	5 209
Other Asian	7 572	7 851	7 038
White	46 584	36 384	55 236
Mixed - with Chinese parent	16 587	14 932	24 649
Mixed - other mixed	2 854	3 160	4 352
Others	1 394	2 172	1 335
Total	343 950	342 198	451 183

Source: Generated from the Census and Statistics Department Interactive Data Dissemination Service

Footnote(s): (1) Ethnicity - Others : The figures include “Black”, “Latin American”, etc.⁴

A3. Ethnic Minority Population and Ethnic Minority Population adjusted for FDHs in 2011

Table 3 below shows the ethnic minority population in descending order adjusted for FDHs. The largest ethnic group in Hong Kong is the “White Population.” There is no further breakdown of this category statistically.⁵

In terms of categories that are clearly made up of one ethnic group, as opposed to a summation of two or more ethnic groups, the largest ethnic minority groups in Hong Kong by size, excluding FDHs are, in descending order, the Indians, Pakistanis and Nepalese. These populations originally come from South Asia.

Table 3. Total Hong Kong Ethnic Minority Population and the figures adjusted for FDHs in 2011

Ethnicity		2011 Total Ethnic Minority Population		2011 Total Ethnic Minority Population (Excluding FDHs)	
		Number	%	Number	%
White		55,236	12.2%	55,226	28.0%
Others	Mixed-with Chinese Parent	24,649	5.5%	29,691 ⁶	15.1%
	Mixed-other mixed	4,352	1.0%		
	Others	1,335	0.3%		
Indians		28,616	6.3%	26,408	13.4%
Pakistani		18,042	4.0%	17,983	9.1%
Nepalese		16,518	3.7%	16,198	8.2%
Filipino		133,018	29.5%	15,489	7.9%
Japanese		12,580	2.8%	12,580	6.4%
Other Asians	Koreans	5,209	1.2%	11,586 ⁷	5.9%
	Other Asians	7,038	1.6%		
Thai		11,213	2.5%	8,599	4.4%
Indonesian		133,377	29.56%	3,262	1.7%
Total		451,183	100.00%	197,022	100.00%

Source: Numbers generated through the Census and Statistics Department Interactive Data Dissemination Service

Note (1) “Others” is the summation of three categories presented in Table 2, namely, Mixed with Chinese Parent, Mixed- other mixed and Others.

Note (2) “Other Asian” is the summation of two categories presented in Table 2, namely, Korean and Other Asian. No further breakdown of this term is provided.

A4. Ethnic Minority Population by Gender

In total the percentage of men to women ethnic minorities in Hong Kong is about the same (51% male, 49% female), see Table 4. However, each ethnic minority group has its own gender distribution.

Table 4. Total Ethnic Minority Population in 2011 (Excluding FDHs) by Gender

Ethnicity	Population (Excluding FDHs)				
	Male	Female	Total	Male (%)	Female (%)
White	33,547	21,679	55,226	61.7	39.3
Others (note 1)	14,724	14,967	29,691	49.6	50.4
Indian	13,929	12,479	26,408	52.7	47.3
Pakistani	10,024	7,959	17,983	55.7	44.3
Nepalese	8,734	7,464	16,198	53.9	46.1
Filipino	5,973	9,516	15,489	38.6	61.4
Japanese	6,676	5,904	12,580	53.1	46.9
Other Asian (note 2)	4,916	6,670	11,586	42.4	57.6
Thai	1,162	7,437	8,599	13.5	86.5
Indonesian	725	2,537	3,262	22.2	77.8
Total (Ethnic Minorities)	100,410	96,612	197,022	51.0	49.0
Chinese	3,200,128	3,420,142	6,620,270	48.3	51.7

Source: Numbers generated through the Census and Statistics Department Interactive Data Dissemination Service



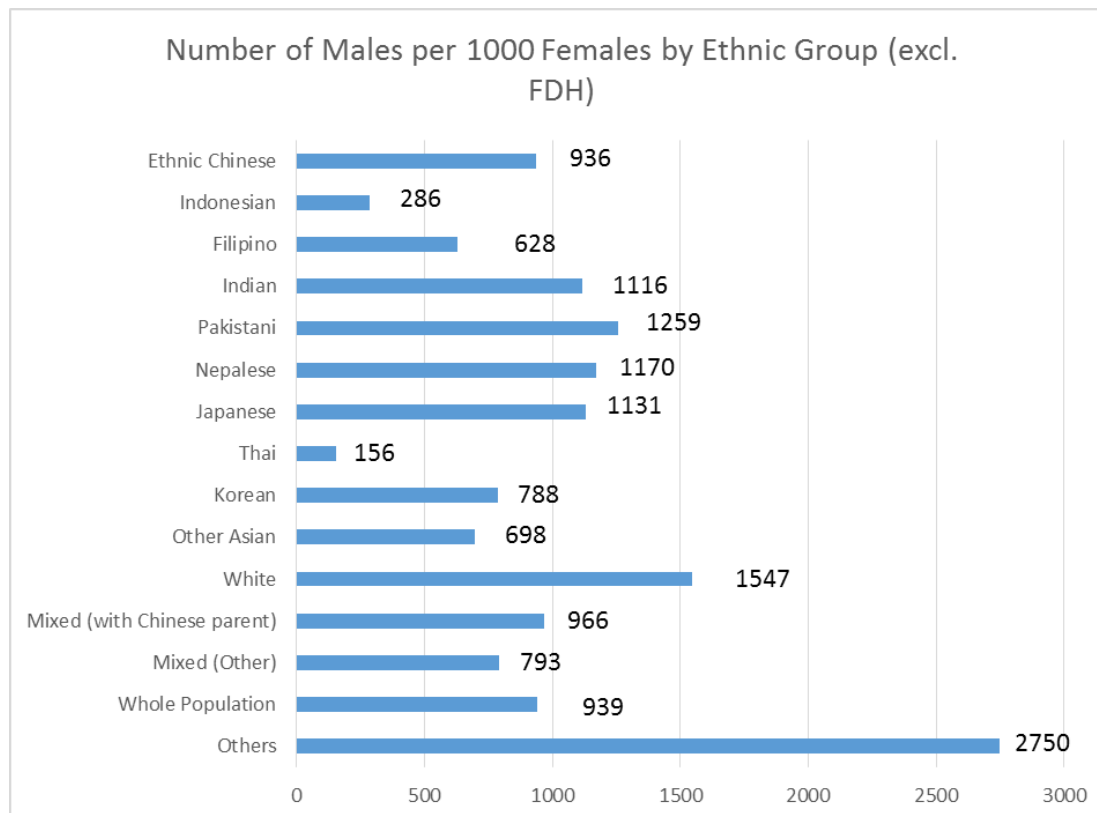
Groups in which the number of females outweighs the number of males

Note (1) “Others” is the summation of three categories presented in Table 2, namely, “Mixed with Chinese Parent”, “Mixed- other mixed” and “Others”.

Note (2) “Other Asian” is the summation of two categories presented in Table 2, namely, Korean and Other Asian. No further breakdown of this term is provided.

Graph 1 below presents the general gender distribution of ethnic minorities in Hong Kong, excluding foreign domestic helpers.

Graph 1. Sex Ratio: Number of males per 1000 females by Ethnicity (excluding FDHs)



Source: Thematic Report on Ethnic Minorities 2011⁸

The sex ratio for White, Pakistani, Nepalese, Japanese, and Indians is significantly above that of the population as a whole (excluding the category 'Others'). This may be explained by the large number of working males in Hong Kong, who are here without their families.

However, the gender imbalance is significant in these groups and the causes should be specifically identified, particularly insofar as there may be cause for concern that amongst the South Asian groups, there is sex selection or a preference for males being practiced. This is particularly important to examine for those population groups which currently have the largest numbers of those aged under 15, namely the Pakistani, Nepalese and Indian communities.

A5. Ethnic Minority Population by Age

A. Ethnic Minority Population and Age

The age distribution of the ethnic minority population is significantly different to that of the Chinese population. Table 5 below shows the population by ethnicity and age in 2011 (excluding foreign domestic helpers). The most notable differences between the age

distribution of the ethnicity minority population and that of the Chinese population are the following:

- The percentage of ethnic minorities population under the age of 15, an important source of the future workforce is significantly higher for almost all ethnic minority groups (e.g. 39.8% of Pakistanis, 22.0% of Nepalese, 21.8% of Indians and 18.8% of Filipinos), than for the Chinese population (11.8%).
- The population of the economically productive group (age 15 to 64) for most of the ethnic minority groups (e.g. 91.3% of Thais, 81.1% of Indonesians, 79.0% of Japanese, 77.9% of Filipinos) is higher than that of the Chinese population (74.2%).
- It follows that the percentage of ethnic minorities population aged 65 or above for all ethnic groups (e.g. 2.2% of Nepalese, 3.2% of Pakistani, 3.3% of Filipino, 3.9% of Japanese) is significantly lower than that of the Chinese population (14.1%).

Table 5. Population by ethnicity and age (excluding Foreign Domestic Helpers), in 2011

Age	Under 15		15 - 24		25 - 44		45 - 64		15 – 64		65 and over		Total
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
Chinese	779,240	11.8	840,466	12.7	1,932,178	29.2	2,136,984	32.3	4,909,628	74.2	931,402	14.1%	6,620,270
Filipino	2,918	18.8	1,469	9.5	6,292	40.6	4,300	27.8	12,061	77.9	510	3.3%	15,489
Indonesian	302	9.3	108	3.3	2,035	62.4	503	15.4	2,646	81.1	314	9.6%	3,262
White	9,295	16.8	4,031	7.3	22,699	41.1	16,004	29.0	42,734	77.4	3,197	5.8%	55,226
Indian	5,767	21.8	2,690	10.2	11,401	43.2	4,590	17.4	18,681	70.7	1,960	7.4%	26,408
Nepalese	3,562	22.0	2,503	15.5	7,526	46.5	2,255	13.9	12,284	75.8	352	2.2%	16,198
Japanese	2,152	17.1	377	3.0	5,617	44.7	3,938	31.3	9,932	79.0	496	3.9%	12,580
Thai	398	4.6	240	2.8	3,718	43.2	3,893	45.3	7,851	91.3	350	4.1%	8,599
Pakistani	7,148	39.8	2,112	11.7	6,713	37.3	1,435	8.0	10,260	57.1	575	3.2%	17,983
Other Asian	1,737	15.0	945	8.2	5,379	46.4	2,978	25.7	9,302	80.3	547	4.7%	11,586
Others	11,041	37.2	5,061	17.1	7,848	26.4	4,344	14.6	17,253	58.1	1,397	4.7%	29,691
Total	823,560	12.1	860,002	12.6	2,011,406	29.5	2,181,224	32.0	5,052,632	74.1	941,100	13.8%	6,817,292

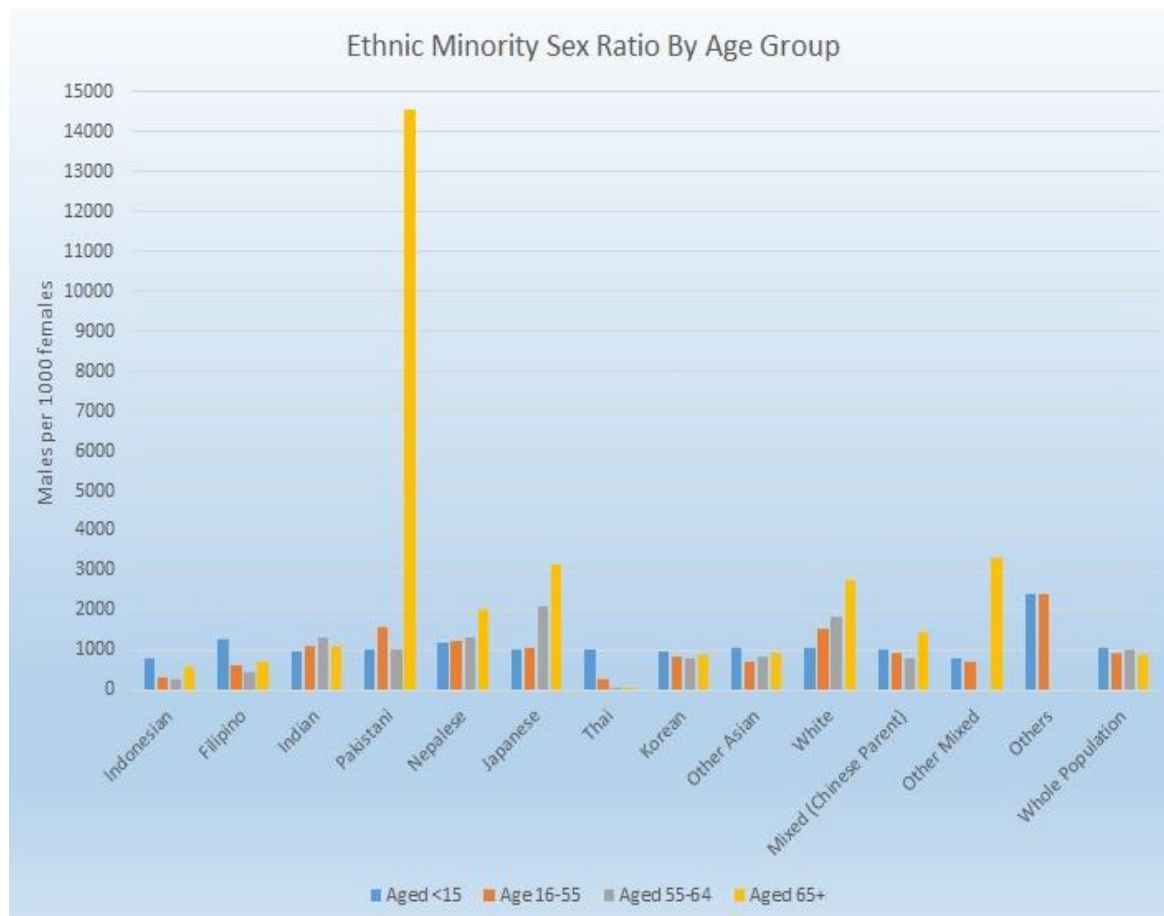
Source: Numbers generated through the Census and Statistics Department Interactive Data Dissemination Service

Note (1) “Others” is the summation of three categories presented in Table 2, namely, “Mixed with Chinese Parent”, “Mixed- other mixed” and “Others”.

B. Ethnic Minority Population by Age and Sex

Combining these statistics to map out sex ratios by age groups across different ethnicities, an interesting picture emerges.

Graph 2. Ethnic Minority Sex Ratio by Age



Source: Thematic Report on Ethnic Minorities 2011⁹

Whilst interesting patterns emerge across the different ethnic groups, what is pertinent to note is the disparities in sex ratios for each of the age groups by ethnicity.

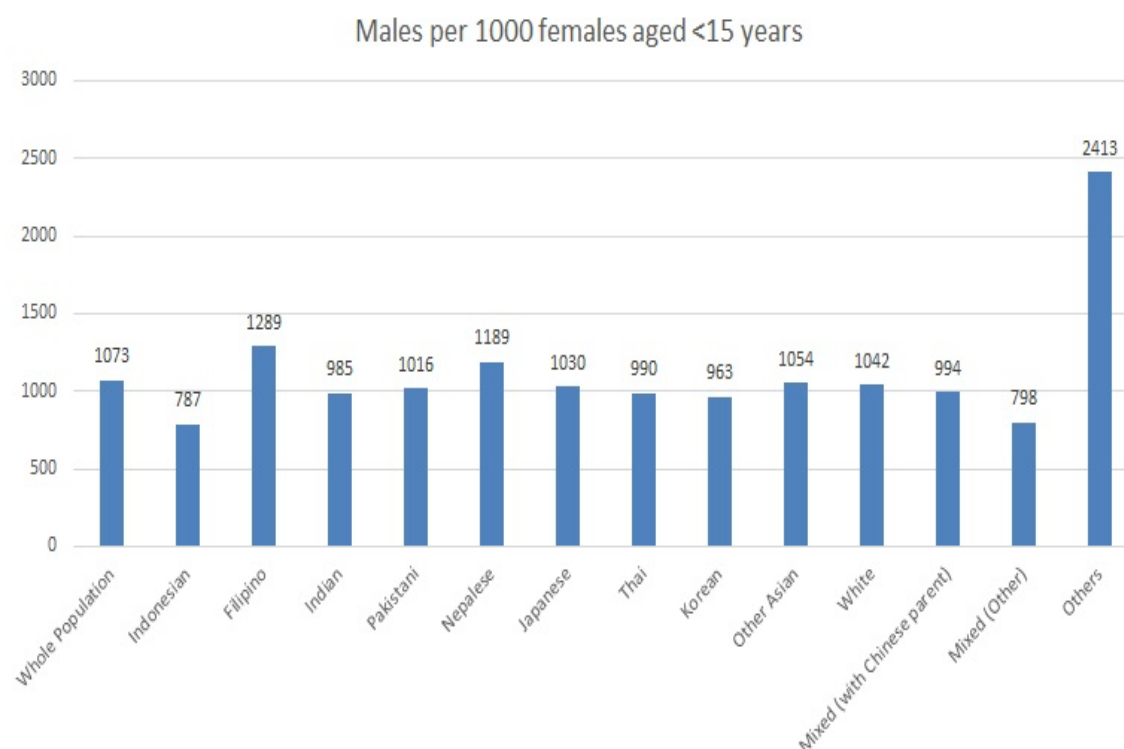
There is a high male to female ratio among ethnic minorities for children under the age of 15, the highest representations being among the Filipinos at 1289 males for every 1000 females, followed by Nepalese with 1189 males for every 1000 females

For the 16-54 years age group, Pakistani, Japanese and Nepalese have a significantly higher male : female ratio, with 1567, 1061 and 1222 males per 1000 females respectively. These numbers and the disproportionate number of White males (1525) compared to females can be attributed to the large number of men working in Hong Kong who have left their families in their home countries.

In the age group 55-64, Indians, Japanese and White males far outnumber their female counterparts 1.337, 2.11 and 1.856 times respectively.

In the 65+ age bracket, Pakistanis have a 14:1 sex ratio which is a significant disparity. Japanese (3.168 : 1), White (1.856 : 1) and Nepalese (2.034 : 1) ratios are also important to watch.

Graph 3. Ethnic minority males per 1000 females in age group <15 (2011)



Source: Census and Statistics Department, Thematic Report: Ethnic Minorities 2011

The skewed ratio for these older groups may have important policy and planning implications for the elderly, especially in the context of healthcare needs of men but also raise questions about the absence of elderly females from these population groups in Hong Kong.

A6. Place of birth, Duration of Residence in Hong Kong and Chinese Nationality

Of the three largest ethnic minority groups in Hong Kong, the Indians, Pakistanis and Nepalese, a quarter of their populations are born in Hong Kong. In addition, 60% or more of the populations of these three ethnic groups have lived in Hong Kong for at least 7 years. Please see Table 6 below for more details.

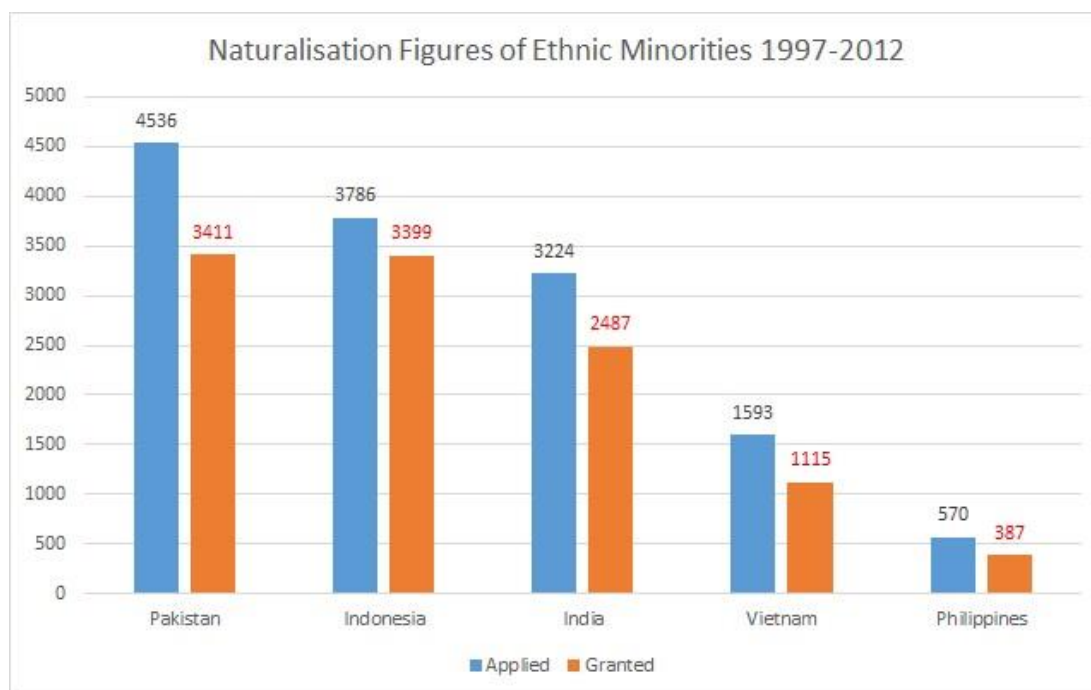
Table 6. Population excluding FDHs born in Hong Kong and resident in Hong Kong for 7 years and over, in 2011 in descending order of those born in Hong Kong

Nationality	Born in Hong Kong %	Resident in Hong Kong for 7 years and over %
Others	73.4	72.7
Chinese	63.7	90.9
Nepalese	40.3	62.9
Pakistani	38.8	60.1
Indian	24.6	60.0
White	21.8	52.4
Filipino	21.3	72.3
Indonesian	12.1	68.3
Other Asian	9.3	49.1
Thai	5.7	89.0
Japanese	5.6	42.0

Source: Calculated from numbers generated through the Census and Statistics Department Interactive Data Dissemination Service

The definition of “Nationality” adopted by Hong Kong Census is “Nationality may be related to a person’s place of residence, ethnicity or place of birth. It may not necessarily be related to a person’s travel document”. Therefore, a severe limitation of the above data is that self-reported nationality may not be a meaningful and consistent categorization. While some report “Nationality” with regard to their ethnicity, others might have reported it with regard to their passports.

Graph 4. Total and successful Chinese Naturalisation applications by the top 5 ethnic minority groups from 1997-2012



Source: South China Morning Post

Since 1997, there were a total number of 15,094 applicants who succeeded in obtaining the Chinese Nationality. Pakistani, Indonesian and Indian account for the top 3 in terms of numbers of successful applicants, representing 4437 (29.4%), 3711 (24.6%) and 3119 (20.7%) people respectively. Each year there are about 1,200 applicants seeking to naturalise as Chinese nationals, however, the Immigration Department has refused to release the figures for unsuccessful applications.

B. EDUCATION OF ETHNIC MINORITIES

B1. School Attendance Rate

There is no statistical breakdown of school attendance rates by ethnicity except in terms of a global figure for ‘ethnic minorities’ as a whole making it difficult to analyze the situation of South / Southeast Asian ethnic minorities (excluding foreign domestic helpers) as regards education. The next section discusses key statistics and highlights the limitations of the figures available in depicting a complete picture to make any meaningful assessments.

Table 7. School attendance rates of ethnic minorities as a group (excluding FDHs) and that of the whole population, broken down by age group.¹⁰

		School Attendance Rate of Ethnic Minorities	School Attendance Rate of the Whole Population
		2011	2011
Kindergarten	3-5	86.9%	91.3%
Primary Education	6-11	100.0%	100.0%
Secondary Education	12-16	98.2%	98.6%
	17-18	76.2%	86.0%
Post-Secondary Education	19-24	32.8%	45.1%
	25+	0.8%	0.5%
Total (Aged 3 and over)		24.1%	18.5%

Source: Source: 2011 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 5.1

B2. Highest Level of Education Attained

The Census concluded that ethnic minorities aged 15 and above had higher educational attainments (in terms of highest level attended) than the whole population aged 15 and over.¹¹ However, analyzed by ethnicity, it is apparent that this is due to the higher educational attainment levels amongst Japanese, Koreans, and White communities, with more than 70% of them having attended post-secondary education. On the other hand, Pakistani and Nepalese had much lower levels of educational attainment compared to the population as a whole, with only 17.1% and 16.1% of them attending post-secondary qualifications respectively.¹²

The percentage of the population that received at least post-secondary education disaggregated by ethnicity is provided by the Census. Separate data excluding foreign domestic helpers is provided by HKCSS. As shown in Table x, the results are largely similar, except in the case of Indonesians. There is a significantly higher percentage of Japanese, Korean and White who received at least post-secondary level education than other ethnic groups.

Table 8. Percentage of people who have received at least post-secondary level education with a breakdown by ethnicity in 2011.

Ethnicity	Percentage of people from within specific ethnic groups who received at least post-secondary level education	
	Incl. foreign domestic helpers	Excl. foreign domestic helpers
Japanese	79.4%	79.4%
Korean	75.8%	75.1%
White	73.9%	73.9%
Indian	52.5%	57.3%
Other Asian	46.3%	51.4%
Filipino	29.7%	54.2%
Chinese	23.9%	23.9%
Pakistani	17.1%	17.0%
Nepalese	16.1%	16.4%
Thai	10.8%	13.1%
Indonesian	7.0%	26.1%
Whole Population of Hong Kong	27.3%	27.7%

Source: 2011 Population Census Thematic Report: Ethnic Minorities, Table 5.2 for data including foreign domestic helpers; adjusted data excluding foreign domestic helpers was published by the Hong Kong Council of Social Service¹³

A more detailed analysis of the situation of ethnic minorities in the context of education is provided in Chapter 3 on the Education of Ethnic Minorities in Hong Kong of this Report.

C. LABOUR FORCE PARTICIPATION OF ETHNIC MINORITIES

In 2011, there were a total of 349,700 ethnic minorities in Hong Kong in the working population, which constituted 9.9% of the whole working population of Hong Kong.¹⁴ In general, there were a higher proportion of ethnic minorities (excluding foreign domestic helpers) joining the labour force, at 65.2%; as compared to the participation rate of the whole population, which was at 59.7%.¹⁵

Table 9. Labour force participation rate of ethnic minorities and general population by gender

	Labour force participation rate (%)	
	Ethnic Minorities (Excluding FDH)	Hong Kong General Population
Male	80.1	67.0
Female	49.6	53.4
Overall	65.2	59.7

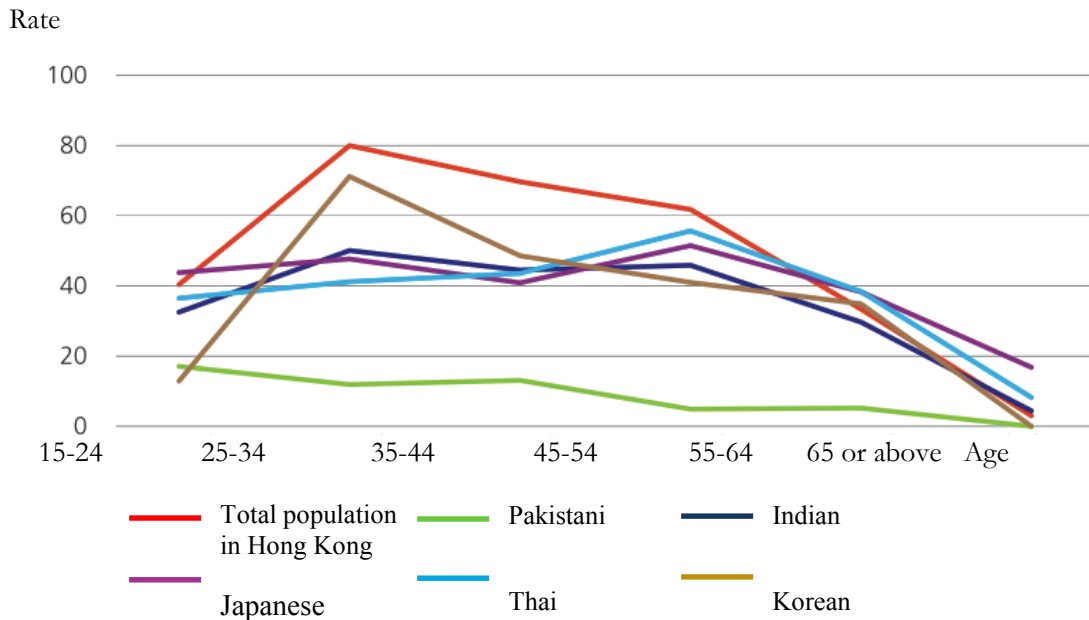
Source: Source: 2011 Thematic Report, Table 6.3

If we look at the distribution by sex, 80.1% of male ethnic minorities (excluding foreign domestic helpers) participate in the work force, which is significantly higher than the 67.0% participation of males in the general population but also considerably higher than the 49.6%

labour participation rate of female ethnic minorities (excluding foreign domestic helpers), which is lower than the labour participation rate of the females in general population (53.4%). However, there was a big difference between female participation and male participation among ethnic minorities (excluding foreign domestic helpers). The labour force participation rate of female ethnic minorities was 49.6% only, whereas the same for male ethnic minorities was 80.1%.¹⁶ Also, analyzed by ethnicity, Pakistani women had the lowest labour force participation rate, at 12.4% only.¹⁷

The under-participation of ethnic minority women is clearly depicted by the following chart produced by the Hong Kong Council of Social Service.¹⁸

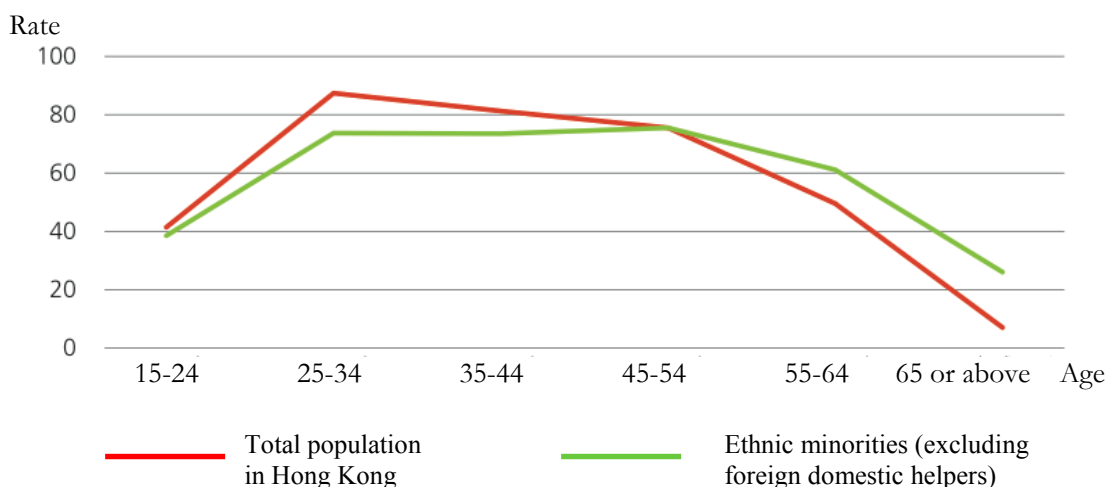
Graph 5. Work Force Participation Rate among Female Ethnic Minorities by Ethnicity and Age (excluding foreign domestic helpers)¹⁹



Source: Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013)

The Hong Kong Council of Social Service produced another useful chart to show the comparison between the distribution of working ethnic minorities across different age groups and that of the working population of Hong Kong as a whole.²⁰

Graph 6. Labour Force Participation Rate among Ethnic Minorities by Age Group in 2011 (excluding foreign domestic helpers)



Source: Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013) ²¹

Table 10. Labour Force Participation Rate among Ethnic Minorities by Age Group (2011) (Excluding FDH) (Both Sexes)

Group/Age	15-24	25-34	35-44	45-54	55-64	>65
Whole Population	41.4	87.4	81.2	75.5	49.5	7.0
Overall, Excluding FDH	38.5	73.7	73.5	75.5	61.1	26.0

Source: Page 7 of the HKCSS Report, based on the 2011 Census (Table 6.1; p. 66)

Table 11. Work Force Participation Rate among Female Ethnic Minorities by Ethnicity and Age (excluding FDH)

Ethnicity	15-24	25-34	35-44	45-54	55-64	>65
Whole Population	42.5	84.0	73.2	63.2	34.1	3.0
Pakistani	18.9	11.9	13.1	4.9	5.2	-
Indian	44.1	63.9	53.7	52.8	30.1	4.4
Japanese	43.8	47.7	40.9	51.5	38.3	16.8
Thai	45.1	57.1	62.3	67.6	49.4	16.8
Korean	12.9	72.2	48.6	41.0	34.9	-
Overall, Excluding FDH	37.4	56.8	55.1	57.7	38.6	7.8

Source: Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013), Table 6.1 of the Thematic Report and use of self-tabulation service 2012.

Thus, from the chart above, it can be seen that the ethnic minority population aged 15 to 54 have a lower labour force participation rate compared to the Hong Kong working population whereas a higher proportion of older ethnic minorities aged 55 or above stay in the workforce

when compared to the corresponding age groups of the Hong Kong working population. The phenomenon is especially noticeable in the age group of 65 and above, where the discrepancy between the two groups is as high as 20%-30%.²² The difference is also significantly pronounced in the economically productive years.

Table 12. Labour Force Participation Rate for Persons Aged 65 and Above by Ethnicity

Ethnicity	Labour Force Participation Rate for Persons Aged 65 and Above
Indonesian (includes foreign domestic helpers)	9.6%
Filipino (includes foreign domestic helpers)	38.1%
Indian	24.8%
Pakistani	33.0%
Nepalese	45.2%
Asians Overall	29.3%
White	30.8%
Thai	18.7%
Mixed	13.7%
Ethnic Minorities Overall (including foreign domestic helpers)	27.6%
Ethnic Minorities Overall (excluding foreign domestic helpers)	26.0%
Whole Population	7.0%

Source: 2011 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 6.1

Although the above figures have not been adjusted to take into account the presence of foreign domestic helpers, it seems that accuracy of the data may not have been affected significantly for the age group of 65 and above because the overall participation rate of ethnic minorities in this age group (27.6%) was only 1.6% higher than that of ethnic minorities excluding foreign domestic helpers (26.0%). Moreover, in general, foreign domestic helpers tend to fall within a particular age group, which does not include persons age 65 or above.

A majority (75.8%) of the working ethnic minorities are engaged in “elementary occupations” – i.e. occupations that do not require special skills compared with 19.5% of the general population as a whole engaged in elementary occupations.

Table 13. Percentage of population engaged in elementary occupations by ethnicity and gender in 2011 (including FDH)

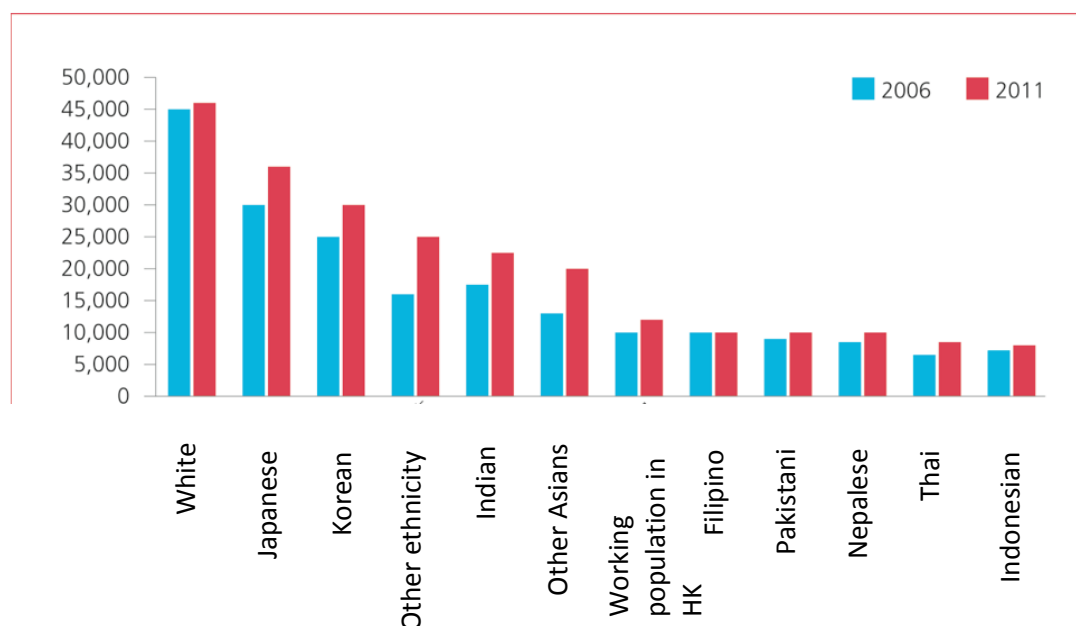
Population Engaged in Elementary Occupations by Ethnicity and Gender in 2011			
Ethnicity	Total (%)	Female(%)	Male(%)
Indonesian	99.3	99.6	42.7
Filipino	94.4	96.9	35.9
Thai	61.5	67.5	12.7
Nepalese	42.3	46.6	39.3
Pakistani	36.0	14.9	38.4
Indian	19.4	42.9	5.7
White	2.2	4.0	1.5
Japanese	0.9	1.8	0.5
Korean	1.1	2.5	n/a
Ethnic Minorities as a Whole	75.8	89.9	12.9
Ethnic Minorities as a Whole (excluding FDH)	11.9	17.3	8.8
General Population as a Whole	19.5	27.1	12.3

Source: 2011 Thematic Report, Table 6.3

An overwhelming proportion of female working Indonesians (99.6%) and Filipinos (96.9%) were engaged in elementary occupations, most of whom are accounted for as part of the foreign domestic helper population. While a substantial proportion of female working Indians (42.9%), Nepalese (46.6%) and Thais (67.5%) were also engaged in elementary occupations, only 14.9% of female working Pakistanis were engaged in the same. In fact, 42.6% of female working Pakistanis were professionals/ associate professionals. Reading this statistic together with Graph 5.1 which shows that Pakistani women remain the most under represented group in the labour force suggests that the figures may be skewed because they apply to a very small number of this group of women engaged in the labour force.

In general, from 2006 to 2011, the median monthly income of different ethnic minorities increased. The graph below shows the median monthly income amongst different ethnic minority groups in 2006 and 2011.

Graph 7. Median Monthly Income Disaggregated by Ethnicity in 2006 and 2011 (excluding FDHs)²³



Source: Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013)

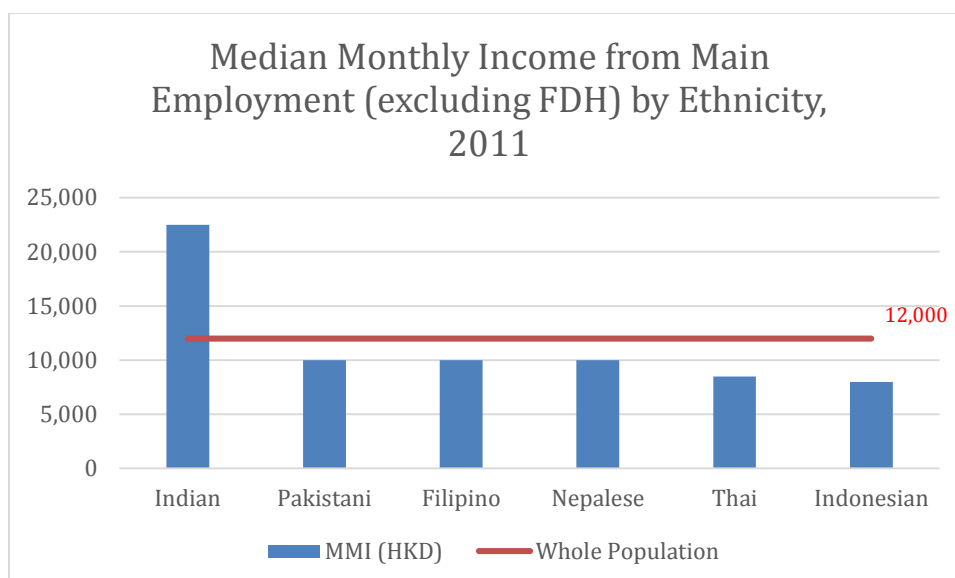
In 2011, apart from Indians, the majority of South Asian ethnic minorities (excluding FDH) earned a lower monthly income when compared to the median monthly income of the whole working population.

Table 14. Median monthly income from main employment (excluding FDH) by ethnicity, 2011

Ethnicity	Median Monthly Income in HK\$
Indian	22,500
Pakistani	10,000
Filipino	10,000
Nepalese	10,000
Thai	8,500
Indonesian	8,000
Working Population as a Whole	12,000

Source: 2011 Thematic Report, Table 6.5

Graph 8. Median Monthly Income from Main Employment (excluding FDH) by Ethnicity, 2011



Source: Hong Kong Council of Social Service

The lower income earned by South Asian individuals compared to the Hong Kong Chinese working population is likely attributable to a substantial proportion of them being engaged in elementary occupations.

Table 15. Proportion of Working Ethnic Minorities by Sex, Ethnicity and Occupation in 2011

<u>Position</u>	Managers and Administrators (%)		Professionals/ Associate Professionals (%)		Elementary Occupations (%)	
	Male	Female	Male	Female	Male	Female
Gender						
Ethnicity						
Indonesian	8.8	0.0	23.0	0.1	42.7	99.6
Filipino	5.6	0.2	30.9	1.0	35.9	96.9
Indian	38.2	11.3	35.1	24.9	5.7	42.9
Pakistani	8.2	14.2	14.2	42.6	38.4	14.9
Nepalese	2.4	0.5	8.2	3.7	39.3	46.6
Japanese	61.5	26.7	31.5	34.9	0.5	1.8
Thai	9.9	1.8	11.3	2.7	12.7	67.5
Korean	56.6	24.6	37.9	41.5	-	2.5
White	45.5	27.4	44.7	50.4	1.5	4.0
Whole Population	12.8	7.3	27.7	24.4	12.3	27.1

Source: 2011 Population Census, Thematic Report: Ethnic Minorities²⁴

A more detailed analysis of the employment situation of ethnic minorities is presented in Chapter 4.

Language

The 2011 Thematic Report provides the following overview of the percentage of Cantonese-speaking persons over the age of 5, disaggregated by ethnicity:

Table 16. Proportion of ethnic minorities aged 5 and over able to speak Cantonese

Ethnicity	Percentage
Chinese	98.8
Thai	91.1
Indonesian	85.6
Pakistani	59.8
Nepalese	48.0
Indian	35.3
Filipino	24.8
Ethnic minorities (total)	51.8

Source: 2011 Thematic Report, Table 4.5

The 2011 Thematic Report does not provide data on the number of ethnic minorities who can read and write in Chinese, which is a significant skill and overwhelmingly impacts competitiveness in the employment market.

D. HOUSEHOLD CHARACTERISTICS AND LIVING ARRANGEMENTS

In 2011, there were 86,969 domestic households with ethnic minorities other than live-in foreign domestic helpers. Of all these households, 73.8% had members all being ethnic minorities; others had both ethnic minorities and Chinese.²⁵

Table 17. Domestic Households with Ethnic Minorities other than Live-in Foreign Domestic Helpers, 2011

Domestic Households with Ethnic Minorities other than Live-in Foreign Domestic Helpers	Number
With all members being ethnic minorities	64,158
With ethnic minorities and other members of Chinese ethnicity	22,810
Total ethnic minority household	86,968
Domestic household in the whole territory	2,368,796

Source: 2011 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 7.1

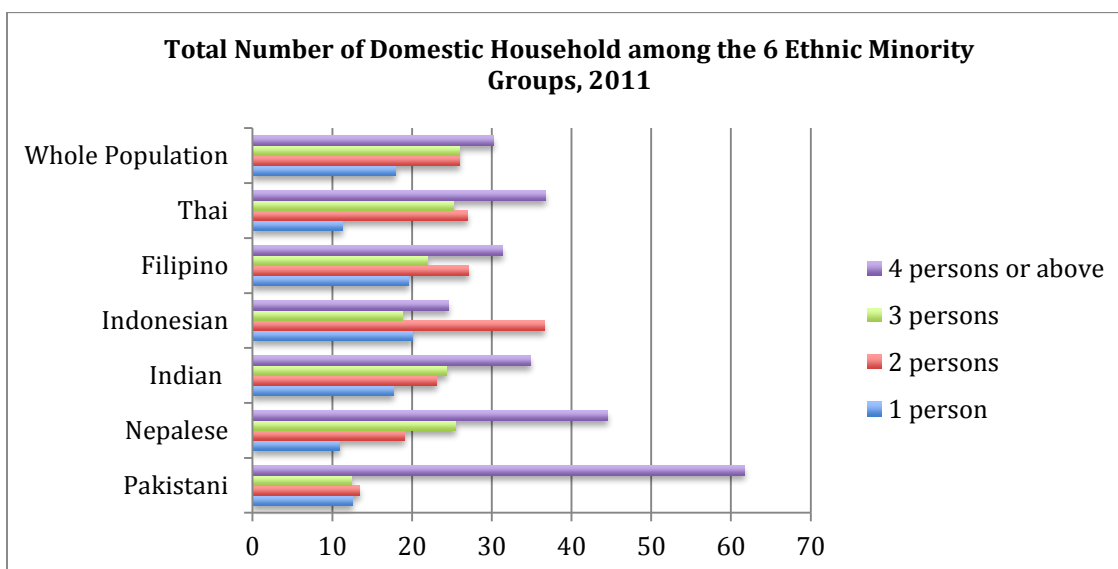
Table 18 and Graph 9 below show the total number of domestic households among the 6 ethnic minority groups in 2011 disaggregated by ethnicity and household size.

Table 18. Total Number of Domestic Households Among Six Ethnic Minority Groups Compared to the General Population in 2011 Disaggregated by Ethnicity and Household Size

Number of domestic households by ethnicity and by household size in 2011					
	1 person	2 persons	3 persons	4 persons or above	Total
Pakistani	576 (12.5%)	618 (13.4%)	570 (12.4%)	2,840 (61.7%)	4,604 (100%)
Nepalese	546 (10.9)	952 (19.0%)	1,277 (25.5%)	2,227 (44.5%)	5,002 (100%)
Indian	1,657 (17.7%)	2,146 (23.0%)	2,274 (24.3%)	3,262 (34.9%)	9,339 (100%)
Indonesian	485 (20.0%)	889 (36.6%)	455 (18.8%)	597 (24.6%)	2,426 (100%)
Filipino	1,535 (19.6%)	2,120 (27.1%)	1,713 (21.9%)	2,452 (31.4%)	7,820 (100%)
Thai	800 (11.3%)	1,911 (26.9%)	1,791 (25.2%)	2,605 (36.7%)	7,107 (100%)
Whole Population	422,676 (17.9%)	615,762 (26.0%)	613,468 (25.9%)	715,296 (30.2%)	2,367,202 (100%)

Source: Hong Kong Council of Social Service²⁶

Graph 9 – Total number of domestic households among the 6 ethnic minority groups in 2011 disaggregated by ethnicity and household size.



Source: Hong Kong Council of Social Service

As regards the type of housing, the Census states that 77.6% of them are living in private permanent housing²⁷, and this is much higher than the 52.5% for all domestic households in the whole territory of Hong Kong. However, the figure of 77.6% does not accurately reflect the situation of South or South-East Asians because the wealthier ethnic groups, such as White, Japanese, Korean, and Indians, etc. are included in the computation.

The Census provides no data with a breakdown by ethnicity with respect to type of housing. There is only data with a breakdown by ethnicity of household head for rental households and owner-occupiers. While the number of rental households and owner-occupiers is similar when the ethnicity of the Household head is Chinese, there are significantly more rental households than owner-occupiers when the household head is an ethnic minority. This is true in all cases, except for Indonesians.

Table 19. Rental Households and Owner-occupiers by Ethnicity of Household Head, 2011

Ethnicity of Household Head	2011	
	Rental Households	Owner-occupiers
Chinese	944647	975264
Filipino	3717	1159
Indonesian	718	739
White	15896	5698
Indian	5611	1955
Nepalese	4231	295
Japanese	3799	356
Thai	1404	358
Pakistani	3636	316
Other Asian	2878	819
Others	3425	2253
More than one household head	60909	244383
Total	1050871	1233595

Source: Source: The Census and Statistics Department Interactive Data Dissemination Service

Table 20. Domestic Households with Children (Aged under 15) by Ethnicity of Household Head and Type of Housing/ Quarters, 2011

Year	2011					
	Domestic Households with Children (Aged under 15)					
Type of Housing/Quarters	Public rental housing	Subsidized home ownership housing	Private permanent housing	Non-domestic housing	Temporary housing	Total
Ethnicity of Household Head						
Chinese	160139	63875	262401	726	3224	490365
Filipino	90	24	1544	135	5	1798
Indonesian	42	-	302	-	-	344
White	389	96	5832	84	61	6462
Indian	627	42	2746	-	4	3419
Nepalese	327	51	1770	3	23	2174
Japanese	24	-	1184	50	-	1258
Thai	139	6	255	-	-	400
Pakistani	1359	30	1264	3	57	2713
Other Asian	105	-	1067	-	-	1172
Others	383	127	784	16	-	1310
More than one household head	6336	17840	64729	160	539	89604
Total	169960	82091	343878	1177	3913	601109

Source: The Census and Statistics Department Interactive Data Dissemination Service

On household composition, the majority of ethnic minorities, as well as that of the whole population of Hong Kong, live in nuclear family households rather than relative family households. Most ethnic minorities are living in nuclear family households composed of a couple with unmarried children. The proportion is especially high for the Pakistani community, at 62%. Another observation is that, except for Indonesians, the proportion of households with lone parent and unmarried children is smaller than that of the whole population.

Table 21. Household arrangements for different ethnic groups in Hong Kong in 2011, as compared against that of whole population of Hong Kong.

Ethnicity	Indonesian	Filipino	Indian	Pakistani	Nepalese	Thai	Whole Population of Hong Kong
One Person Household	16.9%	9.6%	6.0%	3.2%	3.3%	9.6%	5.9%
Households composed of a couple	15.2%	11.0%	10.9%	2.7%	7.3%	20.5%	10.6%
Households composed of a couple and unmarried children	26.6%	44.9%	53.3%	62.0%	46.2%	42.8%	51.5%
Households composed of lone parents and unmarried children	10.8%	7.8%	4.8%	5.5%	5.4%	6.5%	10.5%
Households composed of couple and at least one of their parents	0.7%	1%	2%	0.6%	0.9%	1.2%	1%
Households composed of couple, at least one of their parents and their unmarried children	8%	5%	10%	5%	4%	4.1%	7%
Households composed of other relationship combinations	0.1%	0.1%	0.1%	0.2%	0.3%	12.9%	0.2%

Source: Census Thematic Report 2011 Table 7.3

The Census analyzes the median monthly domestic household income based on the type of housing and its composition of members (e.g. all members being ethnic minorities or otherwise). There is no breakdown of household income by ethnicity.

E. POVERTY

Median Monthly Income

With the exception of Indians, the median monthly income of ethnic minorities is generally lower than that of the whole population.

Table 22 below shows the median monthly income from main employment of the six ethnic minority groups in 2011 with a breakdown by ethnicity and sex.

Table 22. Median Monthly Income From Main Employment of Six Ethnic Minority Groups in 2011 Disaggregated by Ethnicity and Sex.

Median monthly income from main employment by ethnicity and sex in 2011 (excluding foreign domestic helpers)			
Ethnicity	Median Monthly Household Income (HK\$) by Sex		
	Male	Female	Both Sexes
Pakistani	10,000	10,000	10,000
Nepalese	12,000	8,000	10,000
Indian	25,500	15,000	22,500
Indonesian	15,000	7,000	8,000
Filipino	13,000	9,000	10,000
Thai	12,500	7,800	8,500
Whole Working Population	13,000	10,900	12,000

Source: Hong Kong Council of Social Service²⁸

From this table, it can be seen that the difference in monthly income of ethnic minority households and that of the whole working population in Hong Kong ranges between HK\$2,000 and HK\$3,500. However, the difference is even more conspicuous and alarming if we take into account the number of persons in each household.

Table 23 below, shows the median monthly income from main employment of the six ethnic minority groups in 2011 with a breakdown by ethnicity and household size.

Table 23. Median Monthly Income From Main Employment of the Six Ethnic Minority Groups in 2011 Disaggregated by Ethnicity and Household Size

Median monthly household income by household size in 2011							
	1 person	% change ← →	2 persons	% change ← →	3 persons	% change ← →	4 persons or above
Pakistani	9,000	22.2%	11,000	9.1%	12,000	8.3%	13,000
Nepalese	11,500	65.2%	19,000	10.5%	21,000	22.4%	25,700
Indian	38,750	-1.9%	38,000	36.8%	52,000	-23.0%	40,000
Indonesian	5,000	100%	10,000	86.0%	18,600	61.3%	30,000
Filipino	10,000	95%	19,500	67.9%	32,750	-8.4%	30,000
Thai	9,000	44.4%	13,000	38.5%	18,000	14.4%	20,600
Whole population	8,500	88.7%	16,040	43.4%	23,000	21.7%	28,000

Source: Hong Kong Council of Social Service²⁹

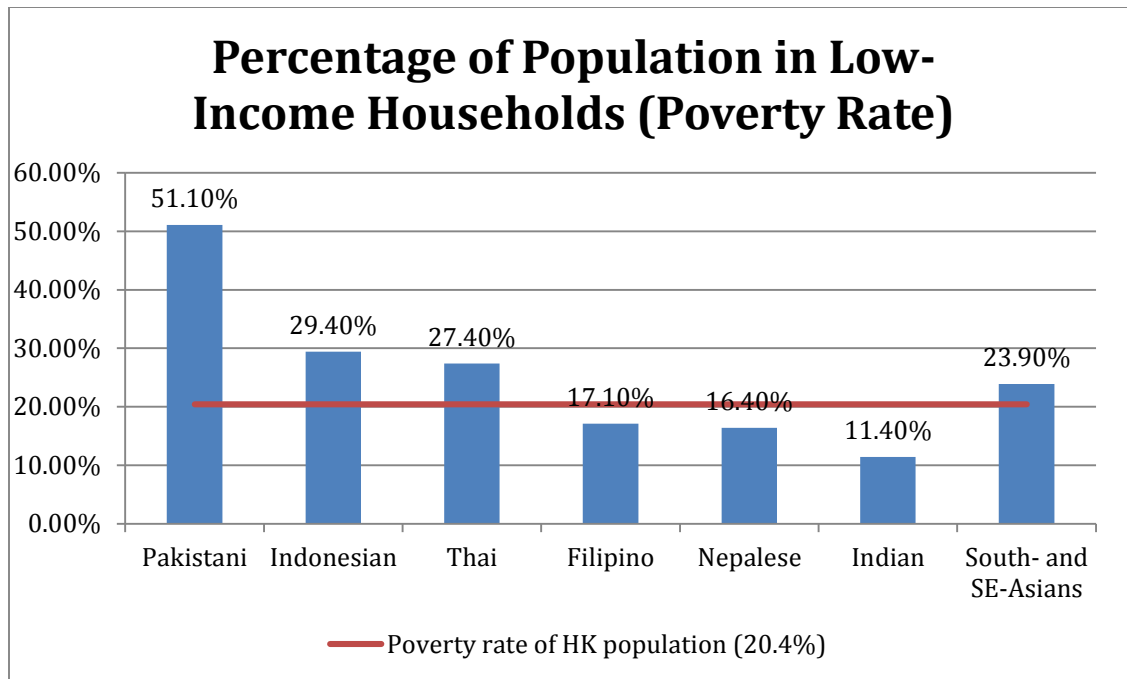
The situation among Pakistani households warrants special attention. The median monthly household income for Pakistanis in a 4-person household is HK\$13,000, which is significantly less than for Indians, which stands at HK\$40,000. If you divide that among the four members of the household, that is just a maximum expenditure of HK\$3250 per person in the Pakistani household of four compared to HK\$10,000 per person in the Indian household.

Furthermore, Table 23 shows that the increase in household income from 1-person households to 4-person households is minimal although it varies significantly between ethnic groups. For example, there is a 44.4% increase in monthly median household income among Pakistani households whereas among Indonesians and Nepalese, the numbers are 500% and 123% respectively. If you consider the difference in value for Indians, however, the increase is a mere 3.2% from a 1-person to a 4-person household.

Moreover, when you look at the rate of increase in the median monthly household income between one person to two person; two person to three person; and three person to four person households for each of the groups, the contrast is stark. For example, for Indians and Filipinos, the difference between the median monthly household income for the 3-person and 4-person households shows a decrease, indicating that those families tend not to be as well off as the ones with fewer household members.

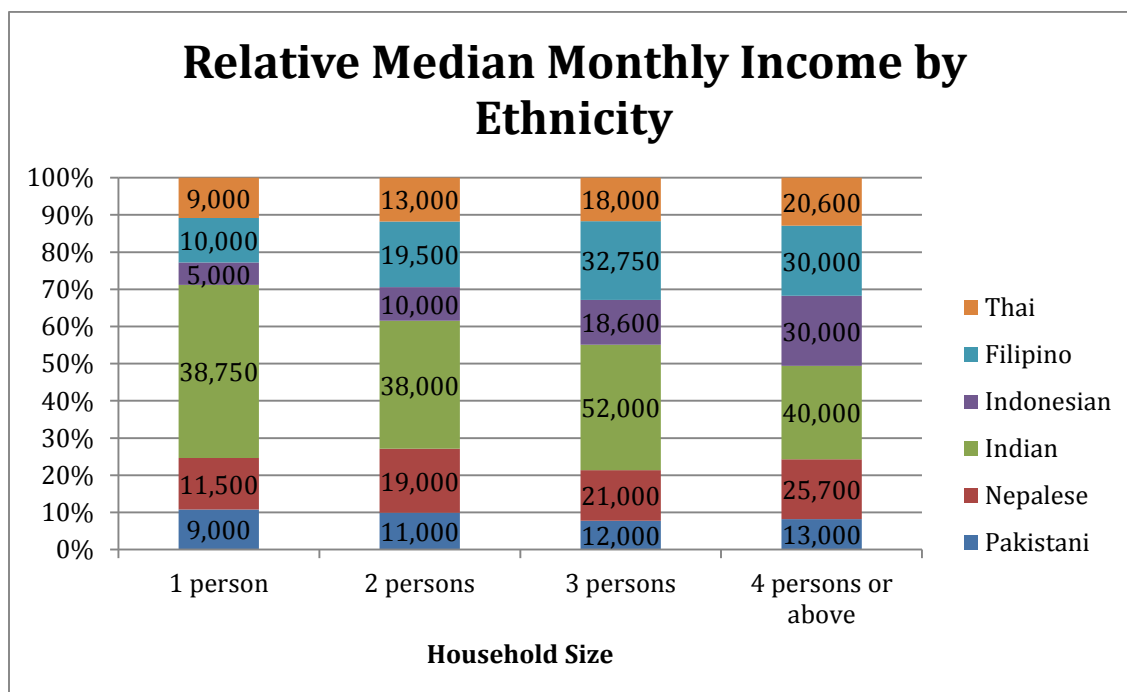
Poverty Rate

Graph 10. Percentage of Population in Low-Income Households (Poverty Rate)



Source: Hong Kong Council of Social Service

Graph 11: Relative Median Monthly Income by Ethnicity



Source: Hong Kong Council of Social Service

The Poverty rate refers to the proportion of households earning an income lower than the poverty line. Applying the poverty line definition to 2011 income data, the respective poverty line for a 1-person household, a 2-person household, a 3-person household and a 4-person household was: \$4,250, \$8,020, \$11,500 and 14,000.

The average poverty rate of South and South-East Asians was 23.9%, higher than that of the whole population of Hong Kong at 20.4%. Among the 6 minority groups, the poverty rate was highest among Pakistanis (51.1%), with 9,607 people living in low-income households.

Graph 12: Median Monthly Income by Household Size Compared by Ethnic Group with Whole Population, 2011

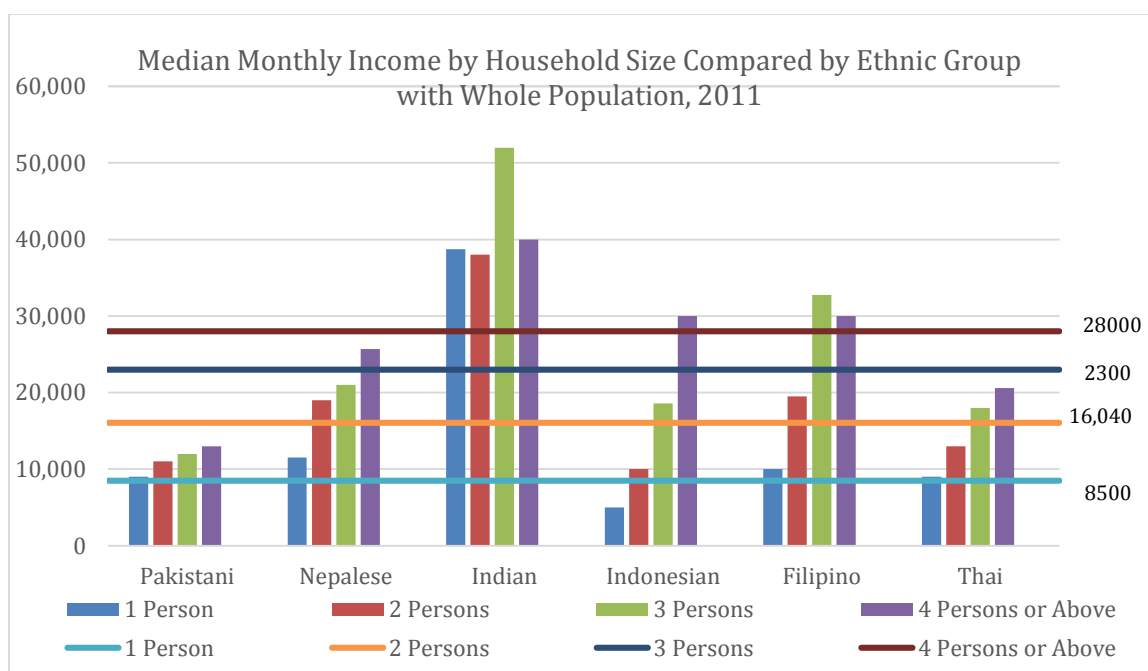


Table 24 below shows the number of low-income households and the total number of persons living in these households in 2011 with a breakdown by ethnicity (in descending order).

Table 24. Number of Low-Income Households and the Total Number of Persons Living in these Households in 2011 Disaggregated by Ethnicity

	No. of low-income households (household poverty rate)	No. of persons in low-income households (poverty rate)
Pakistani	2,207 (47.9%)	9,607 (51.1%)
Indonesian	885 (36.5%)	1,880 (29.4%)
Thai	1,921 (27.0%)	5,989 (27.4%)
Filipino	1,416 (18.1%)	3,834 (17.1%)
Nepalese	731 (14.6%)	2,728 (16.4%)
Indian	940 (10.1%)	3,162 (11.4%)
Overall of South and South-East Asian	8,100 (22.3%)	27,200 (23.9%)
Whole population of Hong Kong	547,215 (23.1%)	1,356,539 (20.4%)

Source: Hong Kong Council of Social Service³⁰

Poverty among ethnic minorities has worsened in the past 10 years. The poverty rate of ethnic minorities increased from 17.3% in 2001 to 23.9% in 2011. Over the 10 years from 2001 to 2011, Pakistanis and Nepalis experienced the greatest deterioration in terms of poverty rate.

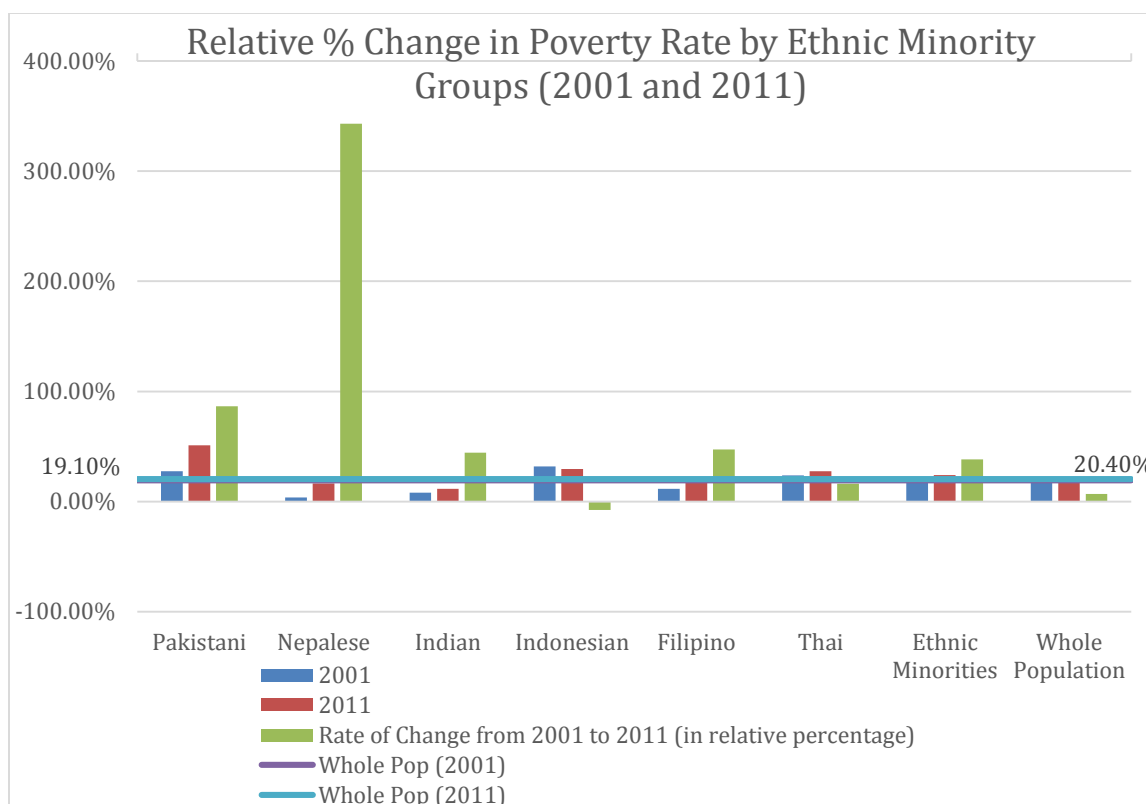
Table 25. Poverty Rate Among Different Ethnic Minority Groups in 2001, 2005 and 2011 as Compared to the General Population

	2001	2006	2011	Change 2001 to 2011 (absolute %)	Change 2001 to 2011 (relative %)	Increase (↑) Decrease (↓)
Pakistani	27.4%	35.4%	51.1%	23.7%	86.5%	↑
Nepalese	3.7%	17.0%	16.4%	12.7%	343.2%	↑
Indian	7.9%	13.3%	11.4%	3.5%	44.3%	↑
Indonesian	31.9%	26.0%	29.4%	(2.5%)*	(7.8%)	↓
Filipino	11.6%	16.8%	17.1%	5.5%	47.4%	↑
Thai	23.6%	22.8%	27.4%	3.8%	16.1%	↑
Ethnic Minorities	17.3%	20.5%	23.9%	6.6%	38.2%	↑
Population of Hong Kong	19.1%	20.5%	20.4%	1.3%	6.8%	↑

* Brackets signify a decrease

Source: Hong Kong Council of Social Service³¹

Graph 13: Relative Change in Poverty Rate Between 2001 and 2011 by Ethnic Group compared with Whole Population (in percentage)



As Graph 13 above depicts, the relative rate of change in levels of poverty were stark for Nepalese and the Pakistani community between 2001 and 2011, whilst all ethnic minority groups, except Indonesians, experienced increases in rates of poverty. Meanwhile, the rate of relative change in poverty for the whole population was 6.8%.

In 2011, 5,099 out of the 8,100 low-income ethnic minority households were working households, reflecting a working poor rate of 63.0%. This is much higher than the working poor rate of the whole population (41.0%). Moreover, the working poor rate was higher in **all six ethnic minority groups** compared to the Hong Kong Chinese population.

Table 26 below shows the percentage of the working poor population among specific ethnic minority groups in 2011.

Table 26. Percentage of the Working Poor Population Disaggregated by Ethnicity in 2011

Ethnicity	% of Working Poor Households
Pakistani	68.6%
Nepalese	70.3%
Indian	59.0%
Indonesian	56.9%
Filipino	57.7%
Thai	62.3%
Overall: South and South-East Asian	63.0%
Whole population of Hong Kong	41.0%

Source: Hong Kong Council of Social Service³²

The problem of child poverty is serious among ethnic minorities. From 2001 to 2011, the ethnic minority child poverty rate increased from 23.7% to 32.5%, with a total of 8,863 children living under poverty. The child poverty rate of the Hong Kong Chinese population was lower by 7%, at 25.0%.³³

With the exception of the elderly (aged over 65), all other age groups also had a higher poverty rate than that of the total population. These 3 age groups ranged from 15-64, the majority of which should have been the most active and employable group in the labour market. The discrepancy in turn reflects the difficulties ethnic minorities face in the job market. Table 27 below shows the percentage of persons living under poverty within specific age groups in 2011.

Table 27. Percentage of Persons Living Under Poverty Disaggregated by Age Range in 2011

	Ethnic Minorities (A)	Total Population of Hong Kong (B)	Difference + = A>B - = A<B
0-14 (Children)	32.5%	25.0%	+7.5%
15-24 (Youth)	23.1%	20.2%	+2.9%
25-44 (Adult)	19.9%	13.0%	+6.9%
45-64 (Adult)	18.9%	17.6%	+1.3%
65 or above (Elderly)	34.6%	40.6%	-6%

Source: Hong Kong Council of Social Service³⁴

Comprehensive Social Security Scheme (CSSA), Social Security Allowance (SSA) and other subsidy schemes

The number of applications for CSSA and SSA and the number of recipients for such subsidies among ethnic minorities is scarce as compared to the number of persons living under poverty

(see above). A summary of number of CSSA and SSA applications from 2006 to 2009 is provided below.

Table 28 below shows the number of CSSA and SSA applications from ethnic minorities in the financial years 2006-2007, 2007-2008 and 2008-2009 respectively.

Table 28. Number of CSSA and SSA Applications from Ethnic Minorities in the Financial Years 2006-2007, 2007-2008 and 2008-2009

Financial Year	No. of Ethnic Minority Applications for CSSA	No. of Ethnic Minority Applications for SSA		Total	No. of Ethnic Minority Persons in Low-income Households
		Old Age Allowance	Disability Allowance		
2006-2007	7,703	1,783	796	10,282	27,200 ³⁵
2007-2008	7,517	1,974	844	28,335	
2008-2009	7,557	2,230	910	10,697	

Source: HK SAR Government, LCQ18³⁶

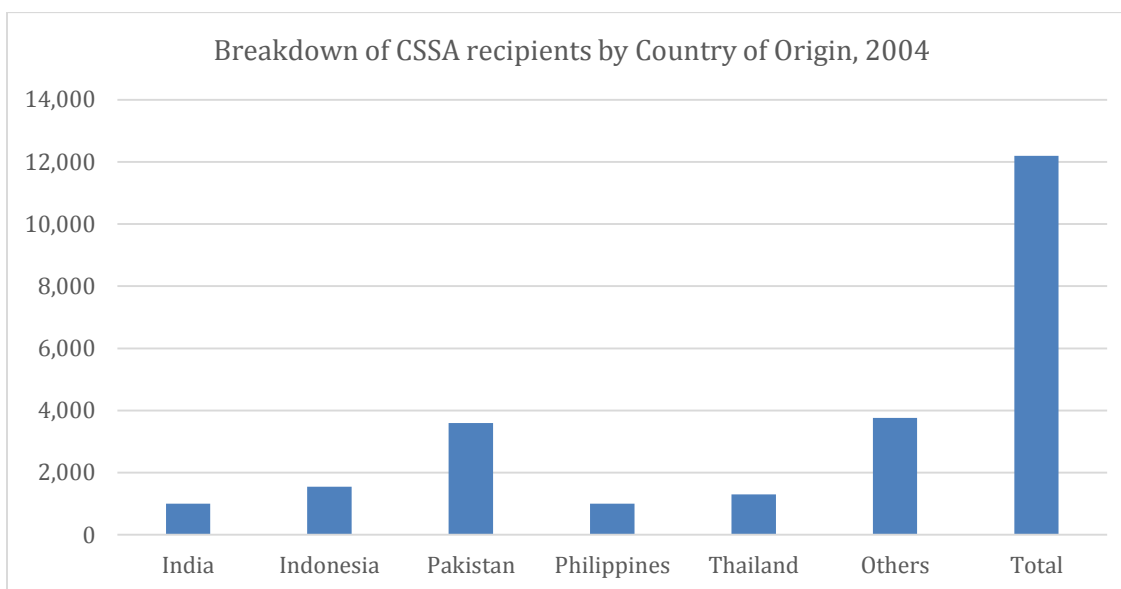
Table 30 below shows the breakdown of CSSA recipients by ethnicity in the years ended 2001-2004

Table 29. Number of CSSA Recipients Reporting Country of Origin³⁷ Being Places Other Than China by Country of Origin, by year ending 2001-2004

Year	India	Indonesia	Pakistan	Philippines	Thailand	Others	Total
2001	561	839	2,546	341	845	2,571	7,703
2002	786	1,139	3,126	616	1,047	3,151	9,865
2003	971	1,173	3,389	905	1,209	3,357	11,404
2004	1,005	1,543	3,596	997	1,298	3,758	12,197

Source: HK SAR Government, Response to LCQ18: Annex II³⁸

Graph 14. Breakdown of CSSA recipients by Country of Origin in the year ending 2004



HK SAR Government, Response to LCQ18: Annex II

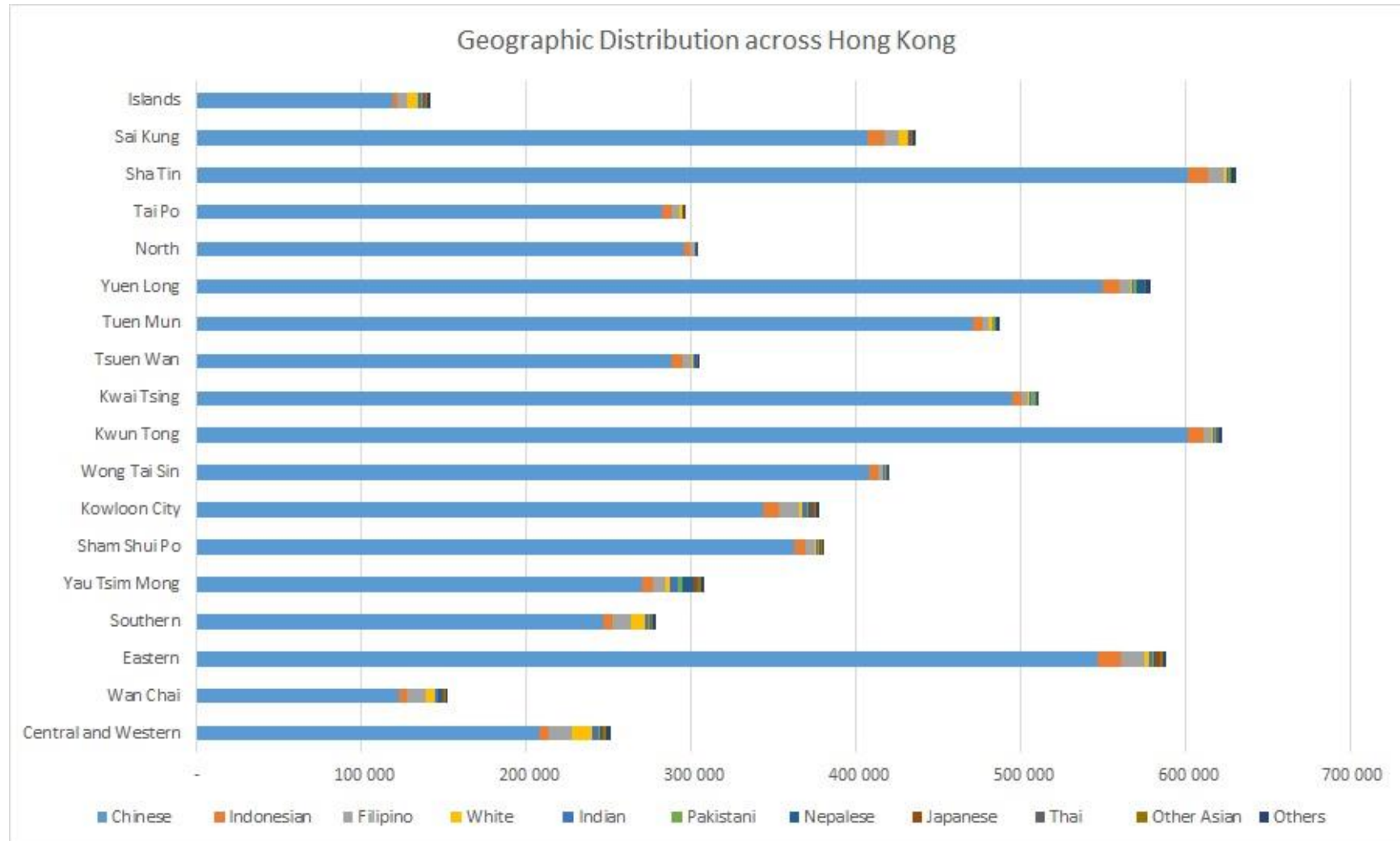
The graph above shows that despite the large numbers of ethnic minorities living under poverty, in general, the number of recipients of CSSA remains fairly low.

E. GEOGRAPHICAL DISTRIBUTION

Amongst South and South-East Asians, the geographical distribution is fairly even for the Indonesian and Filipino communities, an observation linked to the fact that many of them are foreign domestic helpers living in their employers' households. A significant proportion of South Asians live in Yau Tsim Mong: 42.1% of Nepalese, 18.5% of Indians and 12.9% of Pakistanis. Yuen Long is another district with a high proportion of South Asians residing there: 27.3% of Nepalese and 13.2% of Pakistanis.

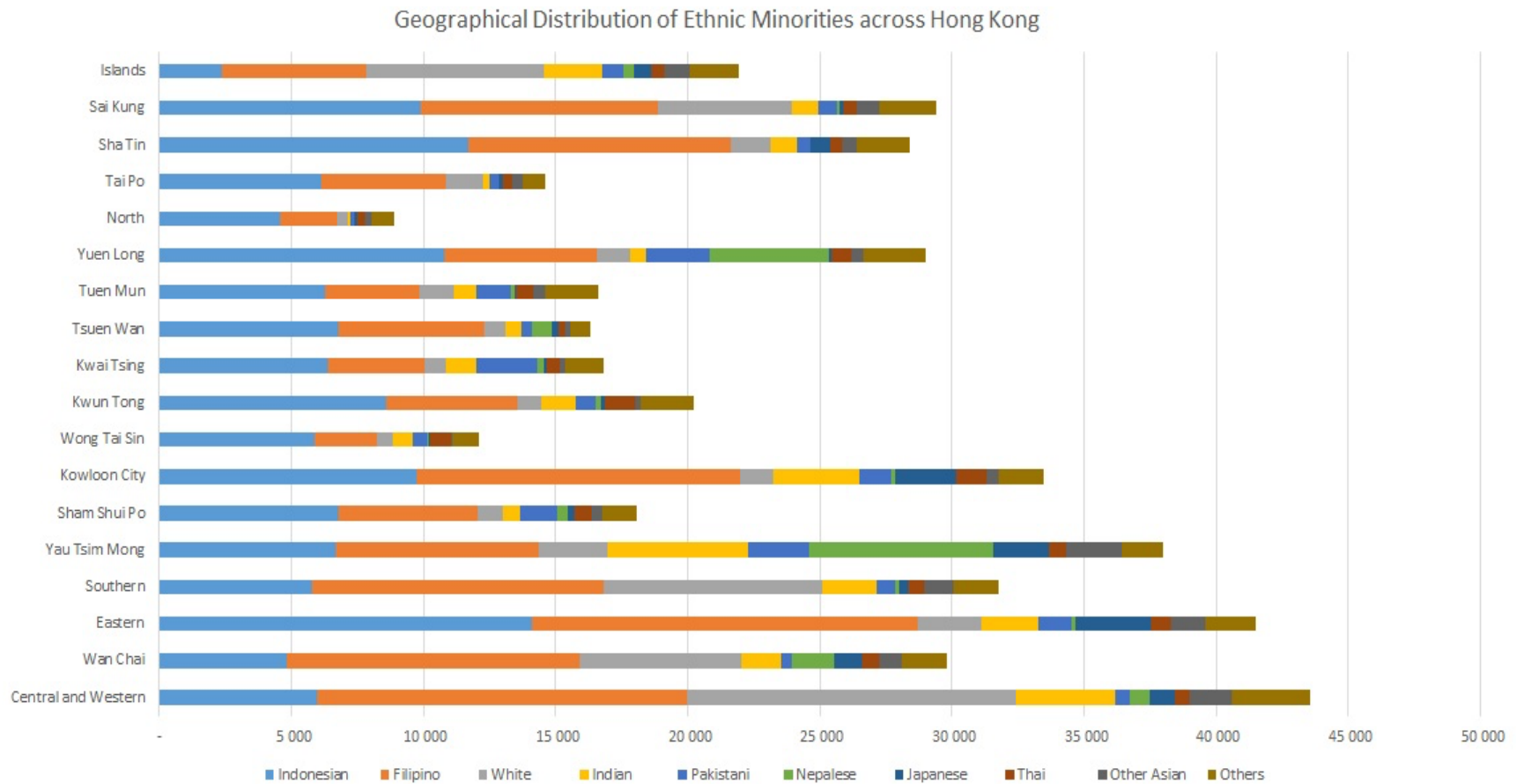
Graph 15 shows the geographical distribution of ethnic groups across Hong Kong's 18 districts, relative to the Chinese population residing in those districts in 2011.

Graph 15. Geographical Distribution of Ethnic Groups Across Hong Kong's 18 Districts



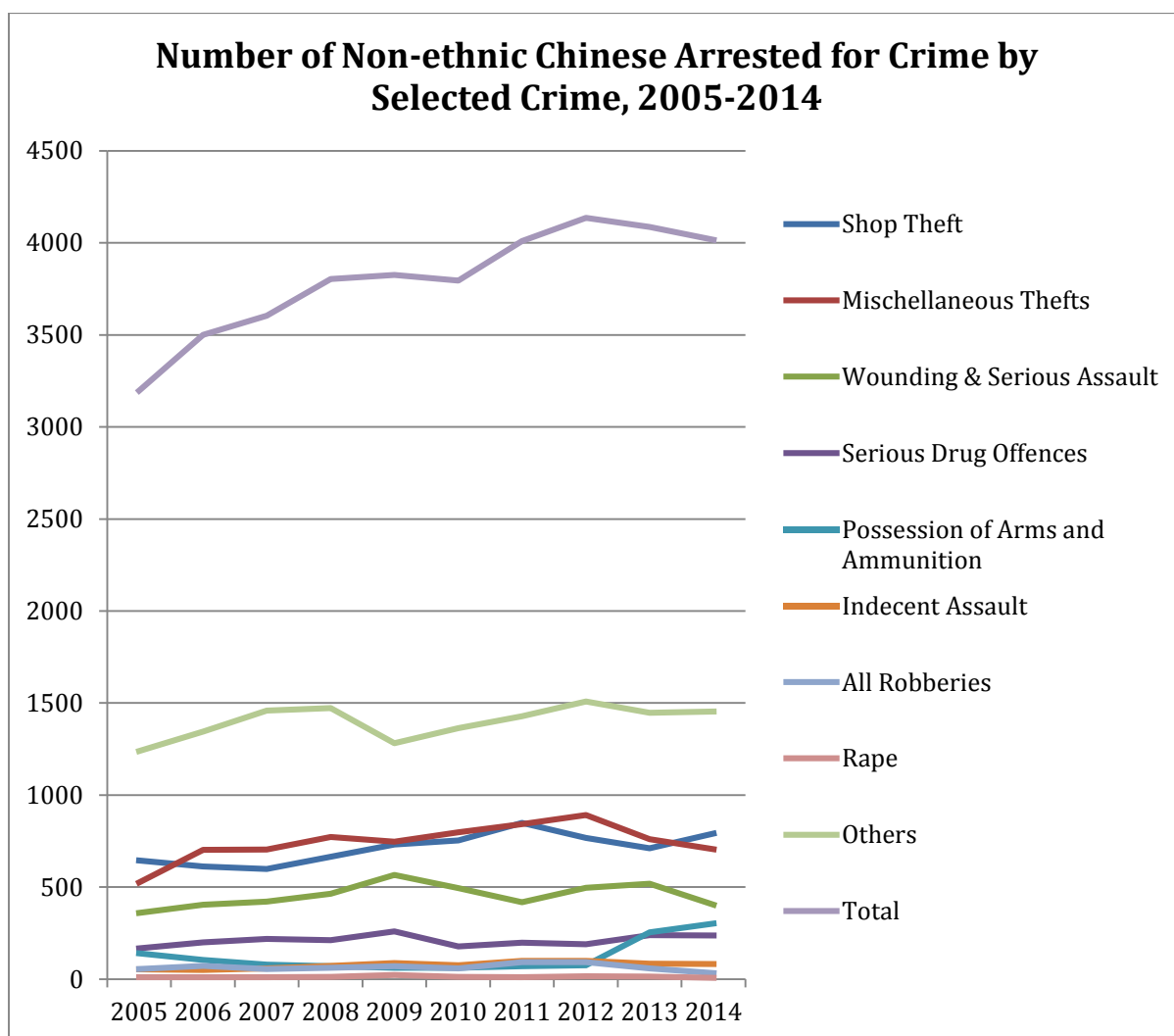
Source: Census Online Access Tool

Graph 16. The Distribution of Ethnic Minorities in Hong Kong by District



Source: Census Online Access Tool

Graph 17. Number of Ethnic Minorities Arrested Between 2005 and 2014, by Type of Crime



Source: Police Department of Hong Kong 2015

Although attempts were made to obtain data related to crimes committed as disaggregated by ethnicity, such records have not been maintained. The only available data provided pertains to arrests made as disaggregated by type of crime and ethnicity. This data is not representative of the crime rates but rather the number of arrests made where suspicion arose regarding the commission of crimes. This data may be explained by a number of factors including, an increase in the population of ethnic minorities, additional police resources allocated to tackle specific crimes, or revised protocols in relation to crime detection and arrest. The data is presented here merely to offer an insight into some of the issues arising from racial profiling and numbers of arrests by type of crime and age groups. More specific data sets are essential in order to formulate an accurate picture of rates of crimes involving ethnic minorities.

As Graph 17 reveals, the total number of arrests of ethnic minorities for serious crimes has generally been on the rise over the course of a ten-year period between 2005 and 2014 (with a slight dip in 2012). Shop and miscellaneous thefts, wounding and serious assaults and

serious drug offences account for the largest categories of arrests. Arrests from Serious Drug Offences increased 41% and arrests from Possession of Arms and Ammunition increased 115%. ‘Others’ is also a sizeable category and it would be interesting to note the categories of offences within that category. Possession of arms and ammunition and shop thefts appear to be on the rise. These statistics are further discussed in Chapter 8 on Crime and Law Enforcement.

¹ Census and Statistics Department, ‘Build Your Own Census Tables’ (*Census and Statistics Department*, 1 June 2015) <<http://www.census2011.gov.hk/en/build-your-census-tables.html>> accessed 19 September 2015.

² Data generated through the Census and Statistics Department Interactive Data Dissemination Service on 23/8/2014 8:47:18 AM Source: see above. Specific calculations were then made to present in this report.

³ Census and Statistics Department, ‘Thematic Report: Ethnic Minorities’ (*Census 2011*, December 2012).

⁴ The footnote under the table generated by the Census interactive tool has a typing mistake.

⁵ In the 2001 Population Census, the category “White” was divided on the basis of nationality into “White – British”, “White – other European (excluding British)”, “White – American, Canadian”, “White – Australian, New Zealander” and “White-Other.” In 2011, the Census maintained an all-inclusive category of “White” without any further breakdown in the Thematic Report (n3), 4.

⁶ No further breakdown is available for the data excluding FDHs.

⁷ No further breakdown is available for the data excluding FDHs.

⁸ Thematic Report (n 3), Table 1.2A

⁹ *ibid.* 29, Table 3.4.

¹⁰ *ibid.* 48, Table 5.1.

¹¹ *ibid.* §5.4.

¹² *ibid.* 54, Table 5.2.

¹³ Hong Kong Council of Social Service, ‘Policy Bulletin: Issue Fifteen, Ethnic Minorities in Hong Kong’ (*Hong Kong Council of Social Service*, 30 October 2013).

¹⁴ Thematic Report (n3), §6.4.

¹⁵ *ibid.* 66, Table 6.1.

¹⁶ *ibid.* 64-65, Table 6.1.

¹⁷ *ibid.*, Table 6.1.

¹⁸ Reproduced from Hong Kong Council of Social Service, ‘Ethnic Minorities in Hong Kong’ (n 13), 8.

¹⁹ Reproduced from Hong Kong Council of Social Service, ‘Ethnic Minorities in Hong Kong’ (n 13).

²⁰ *Ibid.* 7.

²¹ Reproduced from Hong Kong Council of Social Service, ‘Ethnic Minorities in Hong Kong’ (n 13).

²² Thematic Report (n 3) 66, Table 6.1

²³ Reproduced from Hong Kong Council of Social Service, “Ethnic Minorities in Hong Kong” (n 13).

²⁴ Partly reproduced from the Thematic Report (n3), 73-74, Table 6.3. Note the percentage in each ethnic group does not add up to 100% because the sector of “clerical support workers/ service and sale workers”, “Craft and related workers, plant and machine operators and assemblers” and “skilled agricultural and fishery workers; and occupations not classifiable” are omitted.

²⁵ *ibid.* §7.1.

²⁶ Reproduced from Hong Kong Council of Social Service, ‘Ethnic Minorities in Hong Kong’ (n 13), 2.

²⁷ Defined as, “including all private residential flats; all villas / bungalows / modern village houses; all simple stone houses / traditional village houses; and all units of staff quarters” in the Thematic Report (n3).

²⁸ Hong Kong Council of Social Service (n 11) 2.

²⁹ *ibid.* 3.

³⁰ *ibid.* 4.

³¹ *ibid.*

³² *ibid* 6.

³³ Oxfam Hong Kong, 'Survey on the Chinese Learning Challenges South Asian Ethnic Minority Kindergarten Students from Low-Income Families Face' (*Oxfam Hong Kong*, December 2014) <http://www.oxfam.org.hk/filemgr/2639/Oxfam_Surveyon_Dec2.pdf> accessed 20 July 2015.

³⁴ Hong Kong Council of Social Service, 'Ethnic Minorities in Hong Kong' (n 13), 5.

³⁵ HKSAR Government, 'LCQ18: Employment Services for the Ethnic Minorities' (*Hong Kong SAR Government*, 13 November 2013) <<http://www.info.gov.hk/gia/general/201311/13/P201311130454.htm>> accessed 20 July 2015.

³⁶ *ibid.*

³⁷ Note the discussion of the importance of using terms in determining data and its relevance for policy making and in ensuring an accurate understanding of the situation of ethnic minorities in Hong Kong, discussed in the Chapter 'Introduction' of this Report.

³⁸ HK Government, 'Response to LCQ18: Annex II' (*Hong Kong SAR Government*, 2014) <http://www.info.gov.hk/gia/general/200505/04/lcq18_e2.pdf> accessed 25 July 2015.

CHAPTER 1: PERCEPTIONS AND SELF-PERCEPTIONS**OVERVIEW**

This chapter presents an overview of the research conducted into the perceptions of Hong Kong Chinese towards Hong Kong's ethnic minorities and the perceptions that ethnic minorities have of themselves. The research findings highlight the pervasiveness of racial discrimination in Hong Kong and the impact this has on the self-perceptions of ethnic minorities residing here. For example, second- or third-generation ethnic minorities who are still seen as "immigrants" by locals due to their skin colour experience difficulties in establishing Hong Kong identities and a sense of belonging despite their longstanding connection with and contribution to Hong Kong.¹ The outcomes suggest an urgent need for targeted policies to tackle misinformation, prejudice and a fundamental lack of understanding and awareness about Hong Kong's ethnic minorities in the short-term and implement measures to cultivate trust, understanding and mutual respect for ethnically diverse groups in the longer-term. There is also a need to research and understand the history of ethnic minorities in Hong Kong to generate discourse that is inclusive of ethnic minorities and properly documents the presence and contributions of ethnic minorities here.

A. PERCEPTIONS OF HONG KONG CHINESE TOWARDS ETHNIC MINORITIES***A1. Government Consultations***

In 1996-1997, the Home Affairs Bureau conducted the first public consultation aimed at understanding Hong Kong people's attitudes and perceptions towards ethnic minorities in Hong Kong ("1997 Public Attitudes Towards Ethnic Minorities Survey").² Based on the outcomes of this survey, the Government concluded that racial discrimination was not a serious problem in Hong Kong and this provided the basis for the decision not to introduce legislation to combat racial discrimination at that time.³ A review of the public's responses to some of the questions in the survey, however, shows precisely why such legislation was needed. The public's responses showcased their discriminatory attitudes towards particular groups. The failure on the part of the Government to take note of the prejudice inherent in the public's responses highlights the deeply rooted nature of the problem of racial discrimination in Hong Kong. The Government's conclusion that the findings do not suggest that racial discrimination was a serious problem in Hong Kong despite the discriminatory nature of the public's responses foreshadows and in a way, underscores the reason why many ethnic minorities in Hong Kong do not appear to be faring well across various aspects of life.

The Home Affairs Bureau commissioned a second public survey in 2004, in which a total of 1,954 respondents were interviewed ("2004 Public Attitudes Towards Racial Discrimination Survey").⁴

Table 1.1 Respondents' views on the unacceptability of racial discrimination in different situations

Field	Situation	% finding behaviour 'unacceptable'
Provision of goods and services	Refusal to provide goods or services to a customer because of their racial background	89.3%
Admission to School	Refusal to admit a student on the basis of his / her racial background	86.0%
Salary	Two employees with an identical job portfolio get different salaries on the basis of their different racial backgrounds.	80.1%
Employment	Refusal to employ a person on the basis of their racial background	78.8%
	An advertisement for recruitment indicates that only persons of a certain race are eligible for the job.	71.4%
Membership in Clubs	Refusal to admit a person as a member on the basis of their racial background.	76.2%
Rental of Property	Refusal to let a vacant flat to a person on the basis of their racial background.	70.5%
	Refusal to sublet a room to a person on the basis of their racial background.	60.5%

Source: Home Affairs Bureau, (2004), "Survey on Public Attitudes towards Racial Discrimination".

A relatively high percentage of respondents (ranging between 60-90%) rated it as "unacceptable" to discriminate against a person based on his/ her racial background in specific situations (from the provision of goods and services to the letting of accommodation, see Table 1.1 above), Slightly less than half of them (47.5%) perceived that there was a problem of racial discrimination in Hong Kong. Nearly 60% of the respondents supported the introduction of legislation to prohibit racial discrimination and 80.2% were of the view that the Government "should take measures to promote racial harmony and educate the public about racial equality," whilst 64.7% believed that "a race discrimination law would not have a negative impact on the Hong Kong economy."

On attitudes towards having friends, colleagues or superiors of different racial backgrounds, there were very high acceptance levels ranging from 85.4% to 93.7%. However, compared to acceptance levels towards Caucasians and East Asians, acceptance levels for South Asians were lowest across all three categories. The lowest acceptance levels were for the category of the acceptability of having South Asians as friends, which 85.4% of the respondents considered acceptable compared to 92.7% and 91.6%.for Caucasians and East Asians respectively. Indeed, given that racial prejudice is invidious and can have a detrimental

impact on the targeted groups, the percentage of unacceptability of racial discrimination in the categories outlined ought to be significantly higher. That the acceptability of such discrimination in the context of employment, membership of clubs and rental of property is considerably high (almost 40% for rental of property) betrays the accuracy of the relatively low percentage of those who considered Hong Kong has a racial discrimination problem.

Also in 2004, the Government conducted a public consultation on the need for legislation against racial discrimination (“2004 Racial Discrimination Legislation Public Consultation”).⁵ The consultation exercise was criticized by a local NGO, Hong Kong Unison, for its failure to take into account ethnic minorities’ views on the issue, particularly in relation to the difficulties they faced and the issue of perceived discrimination.⁶ For instance, the consultation paper was not translated into languages of the major ethnic minority groups in Hong Kong, and there was little initiative taken to make ethnic minorities aware of the consultation process. Given the centrality of the views of this key stakeholder group, this was perceived to be a glaring omission.⁷

This led some universities and NGOs to conduct their own surveys to better understand the general acceptance of ethnic minorities among Hong Kong people. The findings of these surveys are described below.

A2. Public Attitude and Perception Towards Ethnic Minorities (2004)

In 2004, Lingnan University conducted a telephone survey on *Public Attitude and Perception Towards Ethnic Minorities* (the “2004 Public Perception Survey”).⁸

Table 1.2 Background of Participants Sample in the 2004 Public Perception Survey

Participants’ characteristics	% of Respondents
Male	50.4%
Female	49.6%
Aged 30-54	53.3 %
Completed Higher Secondary to Post-Secondary Education	46%
Students, Housewives, Unemployed, Retired	45.5
Worked in Non-professional occupations: Clerks, Service Workers, Shop Salesmen, Other Elementary work	~33%
Did not earn any monthly salary or earned Less than HK\$3000	43.3%
Earned between HK\$10,000 and HK\$29,999	33%

Source: Chan, Cheung Ming, Alfred and Wong, Hon Yui, Eric, “Survey on public attitude and perception towards ethnic minorities 2004” (2005).

A total of 512 respondents chosen randomly from 917 households participated, with an even balance between male and female participants and just over half of them (53.5%) were in the age bracket of 30-54. About half (46%) of the respondents had completed higher secondary

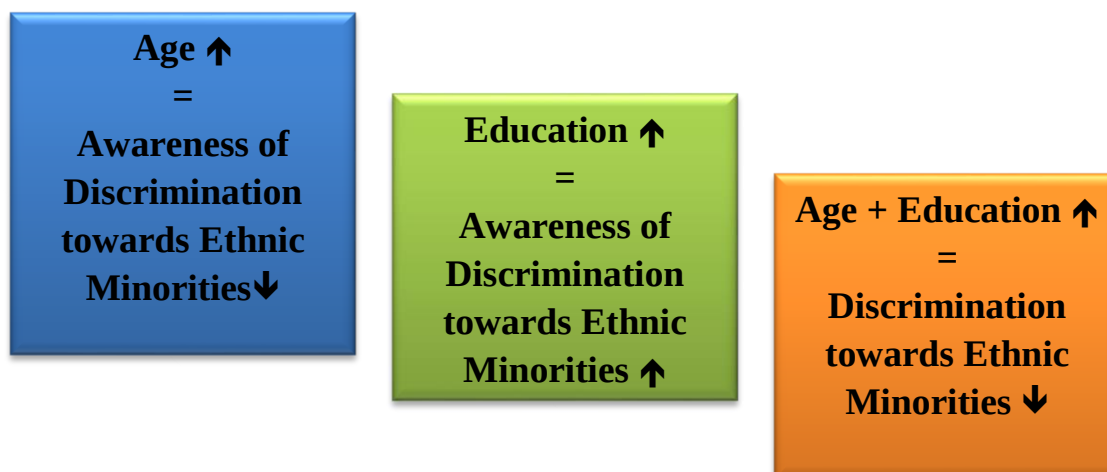
to post-secondary education whilst 45.5% comprised of students, housewives, the unemployed and retired. About a third of the respondents worked in non-professional occupations, such as clerks, service workers, shop sales workers and other elementary occupations.

Table 1.3 Key Findings of the 2004 Public Perception Survey

Statement	% agreed
Racial discrimination is a serious problem in Hong Kong	22.5%
Hong Kong people have serious racial discrimination towards ethnic minorities	~40%
Hong Kong people have a negative perception towards ethnic minorities	58.4%
Unwilling to let their children study in schools with ethnic minority children ⁹	27.6%
There was no need to legislate to combat race discrimination in Hong Kong	50%

Source: Chan, Cheung Ming, Alfred and Wong, Hon Yui, Eric, "Survey on public attitude and perception towards ethnic minorities 2004" (2005).

Just over a fifth (22.5%) of the respondents agreed that racial discrimination was a serious problem in Hong Kong¹⁰ whilst 58.4% of the respondents agreed that Hong Kong people had a negative perception towards ethnic minorities. Almost 30% indicated an unwillingness to let their children study in schools with ethnic minority children.¹¹ Contrary to the views of businesses and NGOs in Hong Kong at this time, which observed that Hong Kong was in need of an anti-racism law given the largely discriminatory attitudes prevalent in the community and the negative impact of the lack of such legislation,¹² half of the respondents disagreed on the need to legislate to combat race discrimination.

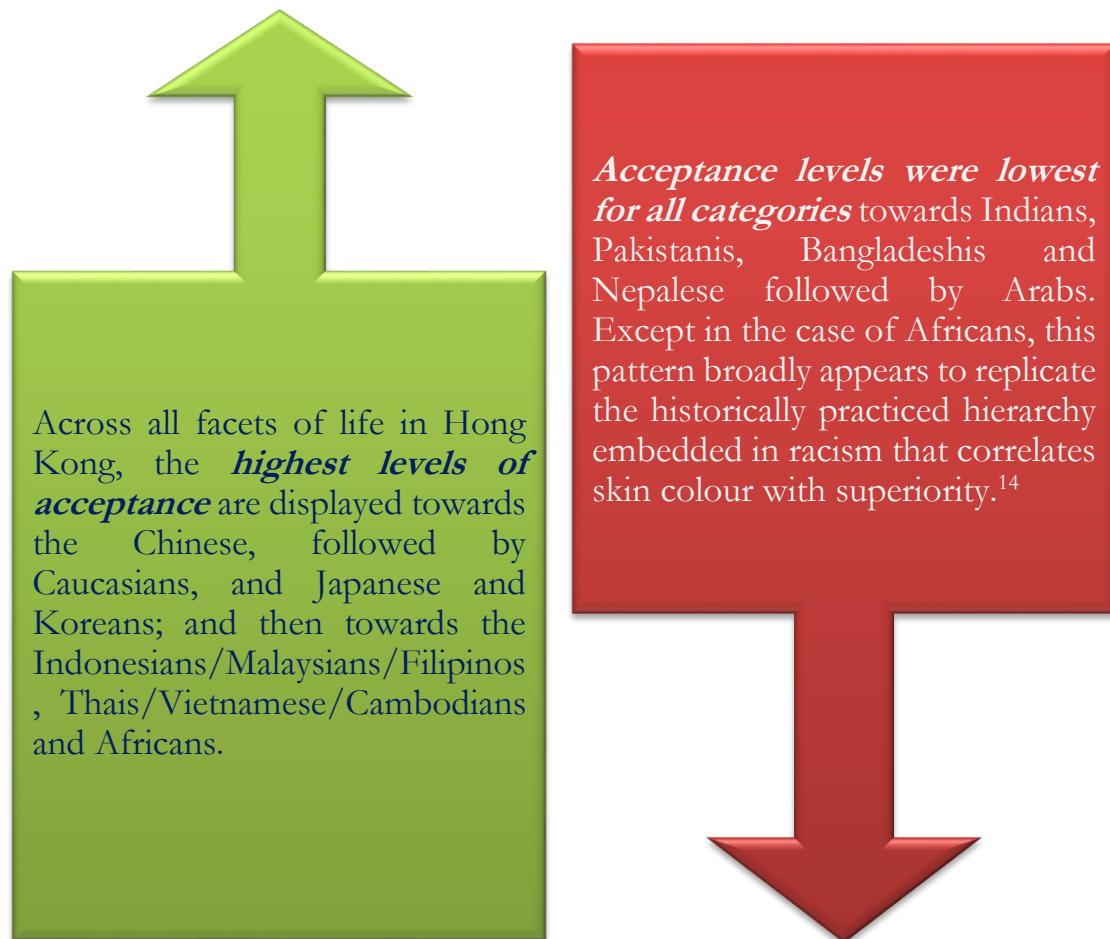


The survey also revealed interesting and important correlations between the background characteristics of the respondents and their attitudes. For example, the older the respondents were, the less aware they were of the problem of serious racial discrimination in Hong Kong towards ethnic minorities. On the other hand, they were more likely to have positive perceptions towards ethnic minorities. Likewise, whilst those who were better educated held

positive perceptions of ethnic minorities, they were also the group that was more aware of the negative attitudes and prevalence of racial discrimination towards them in Hong Kong. These provide excellent pointers as to where to target efforts to raise awareness about ethnic minorities and equality and non-discrimination.

A3. Racial Acceptance Report (2008)

In 2008, the Census and Statistics Department conducted a survey on Racial Acceptance (the “2008 Racial Acceptance Survey”), which compared the racial acceptance of respondents towards different ethnic groups.¹³ Around 10,000 households were surveyed from a scientifically selected sample, and in each household, a person aged 15 or above was randomly selected and asked about their views on racial acceptance towards different ethnic groups. As over 95% of the respondents were Chinese, this report analysed the degree of acceptance of ethnic Chinese towards other ethnic groups across different facets in life including, the provision of services, education, the workplace, living arrangements, family and social interaction. A summary of results is provided below in Table 1.4. Overall, this survey found that there is a significant difference in acceptance levels towards different ethnic groups.



The darker the skin colour, the more inferior the group is perceived to be, and therefore, the more pronounced the lack of acceptance towards the group as reflected in the findings of this survey.

Discrimination

Out of all facets of life, acceptance levels towards the non-Chinese community were lowest in **Education.**

Just over half of the respondents indicated that it was acceptable to choose a school where the majority of the students are of 'Arabian' (55.5%) or Indian/ Pakistani/ Bangladeshi/ Nepalese (56.2%) descent.

The acceptance level towards Indonesian, Malaysian and Filipino groups, was higher at 66.8%.

Low levels of acceptance

- were also apparent in the context of having family members of a particular ethnicity and leasing premises to particular ethnic groups.

Within the category of “other ethnic groups”, the group “Indonesian/ Malaysian/ Filipino”, ranking just behind “Japanese/ Korean”, generally received the highest levels of acceptance, followed by “Thai/ Vietnamese/ Cambodian” and “African.”¹⁵ “Pakistani/ Bangladeshi/ Nepalese and Arabian” generally received the lowest levels of acceptance across all categories of questions.

Although this survey is uniquely representative in that it is one of the largest scale studies conducted on acceptance on grounds of ethnicity, the unfortunate groupings of different ethnic groups, some of whom are perceived quite differently among themselves (for example, North Indians and Bangladeshis), make the findings insufficiently discrete as to the groups which are the targets of the lowest levels of acceptance within this artificially constructed grouping.

Also regretful, is the use of the term ‘Arabian’ which should be ‘Arab’ and, in any event, is not an ethnic group, as Arabs can comprise Caucasians, Africans and those of Middle-Eastern descent. It is primarily used as a descriptor of a culture or language.

The use of these terms and the groupings reflects a lack of appreciation of the insufficient differences between ethnic groups and even individuals belonging to the same ethnic group who come from different parts of one country.

Table 1.4 Racial Acceptance of Hong Kong ethnic Chinese towards different ethnic groups

Category (note 1)	Provision of Services	School	Workplace			
Statement: It is acceptable to...	provide service for customers of the following ethnic groups (%)	choose a prestigious school where the majority of students belong to the following ethnic groups	work with members of the following ethnic groups as colleagues	work under a superior of the following ethnic groups	offer a job to a candidate of the following ethnic groups	pay an employee of the following ethnic groups with lower salary
Chinese	99.3	99.1	99.5	99.1	98.9	94.1
Caucasian	96.6	87.9	95.9	95.1	93.1	90.4
Japanese/Korea	95.0	81.1	93.3	91.8	89.9	88.7
Indonesian/ Malaysian/Filipino	91.7	66.8	89.6	86.6	85.2	85.9
Thai/Vietnamese/ Cambodian	90.6	62.8	87.8	84.8	83.0	86.0
African	88	58	85.9	82.7	79.2	86.1
Indian/Pakistani/ Bangladeshi/ Nepalese	85.7	56.2	83.7	80.5	77.6	85.6
Arabian	85.5	55.5	82.7	80.1	76.3	86.0

Table 1.4 Racial Acceptance of Hong Kong ethnic Chinese towards different ethnic groups (ctd.)

Category (Note 1)	Living Arrangements		Family		Social Interaction
Statement: It is acceptable to...	lease premises to a tenant of the following ethnic groups	have neighbours of the following ethnic groups living next door	have neighbours of the following ethnic groups living next door with whom they could communicate verbally ¹⁶	have family members of the following ethnic groups	invite friends of the following ethnic groups to a party
Chinese	98.1	99.3	99.2	98.8	99.2
Caucasian	88.7	95.7	93.6	85.2	93.7
Japanese/Korea	85.8	94.2	90.6	82.1	92.0
Indonesian/ Malaysian/Filipino	74.9	88.8	87.0	69.3	88.4
Thai/Vietnamese/ Cambodian	72.4	87.8	85.4	66.9	87.6
African	66.5	84.4	80.9	57.4	84.9
Indian/Pakistani/ Bangladeshi/ Nepalese	63.0	81.5	79.8	56.6	83.2
Arabian	63.6	81.6	79.0	56.2	82.7

Source: CSD Thematic Household Survey Report No. 39 – “Racial Acceptance”, June 2009

Note (1): The categories in this column group the levels of acceptance pertaining to the different areas of life in Hong Kong.

Note (2) Other ethnic groups include Indonesian/ Malaysian/ Filipino/ Thai/ Vietnamese/ Cambodian; African; Indian/ Pakistani/ Bangladeshi/ Nepalese and Arabian.

A4. Racial Encounters and Discrimination Experiences of South Asians (2012)

In a study conducted by the Hong Kong Equal Opportunities Commission in partnership with Policy 21 (a University of Hong Kong subsidised Research Services Centre) into the areas of life that formed the basis of the 2008 Racial Acceptance Survey, 19 focus groups comprising 107 Chinese and South Asian stakeholders were organized. The findings present, among other matters, the perception of Hong Kong Chinese towards ethnic minorities in a number of different contexts and detail the extent of and forms of discrimination experienced by South Asians.¹⁷

Around a quarter of the participant sample comprised of South Asians. The rest of the sample comprised Hong Kong ethnic Chinese, who were members of the public or NGO staff. The sample for the focus group, aside from ensuring a wide cross-section across four categories (homemakers, retirees, employees and students), was not scientifically determined and it is unclear from the report how the sample was recruited.

The participants were chosen from various age-sex groups, levels of educational attainment and different economic activity status. For both the Hong Kong Chinese and the ethnic minority individual, the stakeholder groups that participated in the study are presented in *Table 1.5*.

Table 1.5: Stakeholder participants in focus groups in the 2012 Study on Racial Encounters and Discrimination Experienced by South Asians.

Stakeholders	Number of focus groups conducted	Number of Participants
NGOs	5	14
Members of the public (Chinese)*:	9	66
Members of the public, (South Asians)**:	5	27
Total	19	107

*Source: This table reproduces the data presented in the 2012 Study on Racial Encounters and Discrimination Experienced by South Asians.*¹⁸

*Includes home-makers, retirees, employed and students

** Includes home-makers, retirees, employed and students

The discussion in the focus groups centered on employment, education, social interaction, and the provision of goods, services and facilities.

Within each category, the views of South Asians regarding any perceived discrimination and the difficulties they encountered, as well as the opinions of Hong Kong Chinese towards South Asians, were presented. NGO representatives shared their experiences and observations in related contexts to supplement the discussion.

This section presents an overview of the findings pertaining to the perceptions of Hong Kong Chinese towards South Asians while Section B below presents the findings from the focus groups with the South Asians.

The responses of the Hong Kong Chinese respondents:

In Employment

- they do not have any negative impressions of South Asians. They do not think that South Asians are less hardworking or responsible compared to the Chinese. The participants did not report any negative experience of working with South Asians. They reported that they got along well and met socially with ethnic minorities outside of work. The participants stated that they were aware of the different eating habits of their South Asian colleagues (for example, many of them would bring lunch from home) and they would respect their needs for eating separately.

In Education

- the Chinese respondents said that they would mingle or work together with South Asian students if the school provided such an opportunity and in fact, mothers of young students reported that their children did mix and play with South Asian students.

In Social Interaction

- Chinese and South Asians interacted at “*a level of maintaining appropriate demeanour*”; but there was still a differential attitude towards South Asian ethnic minorities, especially among the younger generation of Chinese people. For instance, while Chinese parents indicated that they would accept South Asian in-laws, Chinese youngsters showed less enthusiasm about marrying or entering into relationships with South Asians. Also, they were hesitant about establishing deeper personal relationships with South Asians as opposed to Caucasians.
- Chinese participants reported that they had the perception that South Asians “*would like to keep to themselves, seldom venturing outside their own group.*” Some thought that South Asian women avoided making eye contact with them and therefore, formed the impression that South Asians secluded themselves “*as a result of an inferior feeling.*”

In terms of Differences in Cultures

- Chinese participants admitted that they knew little about South Asian cultures. For instance, they knew a few things about South Asian foods; however, festivities and customs were entirely foreign to them.¹⁸

On the provision of goods, services and facilities

- Chinese participants stated that they did not feel that South Asians were treated differently because of their race and ethnicity

On Other behaviour

- some noted that Chinese people would sometimes cover their noses when they were near South Asians or even avoid sitting next to them on public transportation. They claimed that this was not driven by discrimination but was rather a general reaction to unpleasant smells, regardless of a person’s race and ethnicity. They also thought that South Asians generally had larger physiques, which led to their preference of not sitting next to them.¹⁹

Chinese Participants

reported that they had the perception that South Asians “*would like to keep to themselves, seldom venturing outside their own group.*”

Some thought that South Asian women avoided making eye contact with them and therefore, formed the impression that South Asians secluded themselves “*as a result of an inferior feeling.*”²⁰

One participant

said he had no reservations hiring South Asians in the future and pointed out that working attitude is not something that could be generalised on the basis of a person's race: “*there were lazy and irresponsible South Asian workers just as they were languid and unreliable Chinese*”²¹

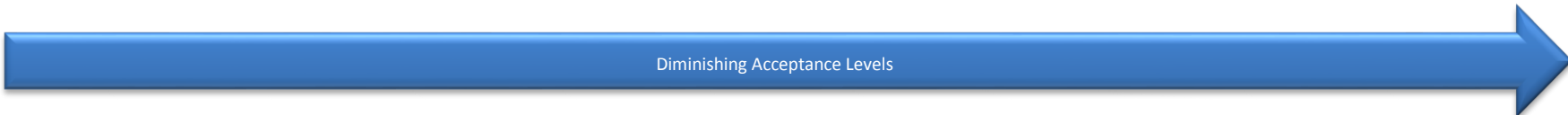
A5. Racial Acceptance Survey Report (2012)

In 2012, a local NGO, Hong Kong Unison, produced a statistical report entitled *Racial Acceptance Survey Report* based on approximately 1,800 surveys, over half of which comprised responses of police recruits from the Hong Kong Police College (2012 Racial Acceptance Survey Report).²³ The rest came from secondary school and university students as well as teachers from secondary schools that enrolled ethnic minorities. The respondents were chosen based on Hong Kong Unison’s contact with ethnic minorities or those working with ethnic minorities in the course of their work duties or studies (for student respondents). For the purposes of this survey, “Chinese” respondents are defined as “ethnic Chinese Hong Kong residents.”

Respondents were asked to rate their acceptance levels for the following statements via a written questionnaire. The survey findings are presented in *Table 1.6* below.

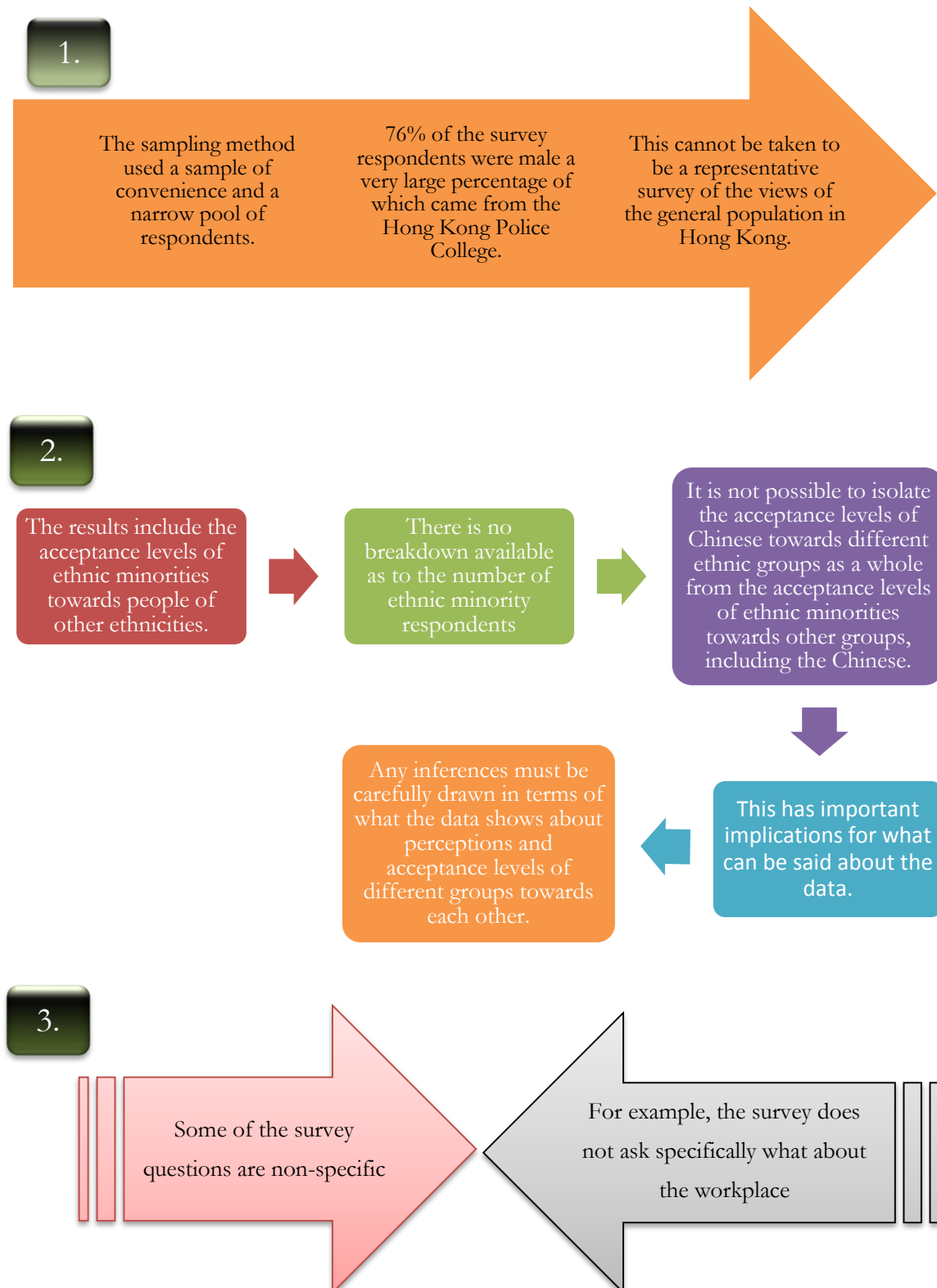
Education:
“I accept studying with _____ in the same school.”
“I accept studying with _____ in the same classroom.”
“I accept having my children study with _____ in the same school.”
“I accept having my children study with _____ in the same classroom.”
Neighbourhood
“I accept living with _____ in the same neighbourhood”
“I accept living with _____ on the same floor”
“I accept sitting next to _____ on public transportation.”
Personal Life:
“I accept being friends with _____”
“I accept having my family members marry _____”
“I accept marrying _____”
“I accept having my children be friend with _____”
“I accept having my children marry _____”
Workplace:
“I accept being colleagues with _____”

Table 1.6 Degree of acceptance of Hong Kong ethnic Chinese towards different ethnicities.

Degree of Acceptance towards ethnic group in the following areas of life	Japanese %	American %	Chinese %	European %	Filipino %	Indian %	Nepalese %	African %	Pakistani %
Relationships	85.7	86.0	85.0	83.0	60.6	61.0	59.2	60.0	59.1
Neighbour-hood	92.6	89.3	85.4	86.1	67.2	65.0	64.4	63.4	62.6
Workplace	91.2	89.4	88.7	85.9	71.8	70.7	70.0	69.8	69.3
Education	90.0	89.9	87.4	86.6	70.2	69.9	69.4	68.7	68.5
 Diminishing Acceptance Levels Higher acceptance Lower acceptance									
The acceptance brackets across all areas of life	Top Tier: American and Japanese		Second Tier: Chinese and European		Third tier: Indian and Filipino		Fourth tier: Nepalese and African		Last tier: Pakistani

Source: Hong Kong Unison's 2012 Racial Acceptance Survey Report. Further analysis on acceptance levels and race was performed by the author and the editorial contributor to this report.²⁴

However, the findings of the survey need to be treated with caution due to limitations in the study's methodology. These include:



KEY FINDINGS OF THE 2012 RACIAL ACCEPTANCE SURVEY REPORT

- There is greater acceptance for some races over others and the pattern of preference is very clear. See Table 1.6 above
- The results of the survey confirm that consistently, across all questions, South Asians are viewed less favourably when compared to East Asians and Caucasians, with Caucasians receiving the highest levels of acceptance.
- In particular, there appears to be a clear gap in acceptance levels between the second tier and the third, fourth and fifth tiers as a group as described in Table 3.
- Pakistanis are the least accepted group across all areas of life. Interestingly, acceptance towards ethnic Chinese did not score the highest. This is inconsistent with the other surveys presented in this Chapter.
- Levels of acceptance in terms of areas of life, in descending order, are in the workplace, neighbourhood, education and lastly, relationships.

Limitations of the Study:

- Some of the ways in which the statements are worded in a manner that may have impacted the results. This means that the data may in some instances, be unreliable to prove a specific relationship between ethnic groups. For example, the statements in the category of personal life ask about acceptability levels towards members of various ethnic groups as friends or appropriate for marriage with oneself, family member and children. The responses may indicate that whilst it may be agreeable to be friends with persons of a particular ethnicity, it was not acceptable to marry out of their ethnic group regardless of which specific ethnic group was asked about and regardless of whether the statement concerned one's own relationships or those of members of their family.
- The data must therefore be analyzed carefully and with reference to the context within which the questions were raised, i.e. decisions having implications for personal life, social life, employment, and educational facilities in Hong Kong and in tandem with considerations about the level of 'involvement' implied by the question in that particular area of life. The answers appear to vary depending on the specific relationship or interaction asked about in any given context, i.e. being friends with or marriage to a person of a different ethnic background.

It is also worth comparing the findings of the 2012 Racial Acceptance Survey Report with the 2008 Racial Acceptance Survey.

Differences in Findings

- First, compared to the 2008 Racial Acceptance Report, this set of surveys found that acceptance levels towards ethnic minority groups were much lower. This is possibly explained by the specific questions listed in each category of the survey, which were designed to solicit different thresholds of acceptability on a range of topics within a single area of life, which might have impacted the results. For example, a person who may find it acceptable to be friends with a person of a

particular ethnic background may not necessarily find it acceptable to marry a person of that ethnicity. Yet, for the purposes of the survey, both these questions fell into the same category of “personal life.”

- Second, the way in which the question was phrased also clearly impacted the responses. For example, in the 2008 Racial Acceptance Report, respondents were asked to rate the acceptability of sending their children to prestigious schools attended by ethnic minority children belonging to different ethnicities. In the 2012 Racial Acceptance Survey Report, however, respondents were asked to rate the acceptability of sending their children to schools where the *majority* of children attending were ethnic minorities of a particular background. The finding that Pakistanis are the least accepted group across all areas of life is inconsistent with the findings of the 2008 Racial Acceptance Survey, which suggested that Arabs were the least accepted group, and in which Pakistanis also scored poorly.
- Given the fact that Pakistanis tend to be Muslim, and that there is a general perception that Arabs are Muslim, the results of the 2008 Racial Acceptance Survey and the 2012 Racial Acceptance Survey Report read together may suggest a bias towards those of Muslim background in the Hong Kong community.
- These findings indicate the importance of maintaining disaggregated records and drawing distinctions in studies between different ethnic groups, including between those of South Asian backgrounds. This is because the findings of the 2012 Racial Acceptance Survey Report highlight differences in perceptions and treatment of Indians, Bangladeshis, Nepalese and Pakistanis. Grouping ethnicities together randomly or by ‘region’ loses the possibility of identifying nuances underlying their differing circumstances.

Similarities in Findings

- One finding that appeared consistent with that of the 2008 Racial Acceptance Report was that in both surveys, the lowest level of acceptance was found in matters relating to the personal life of the respondents, as compared to decisions involving the public or less personal domain. Thus, when asked about the respondents’ attitudes on the acceptability of being friends with ethnic minorities (either themselves, their family or the acceptability of their children being friends with them) and acceptance towards marrying ethnic minorities (either for themselves, their family members or children), less than half of them rated it acceptable where the ethnic minorities concerned were South Asian. On the other hand, acceptance levels towards other ethnic groups (such as European, American, Japanese and Chinese) in the same spheres were much higher.²⁵

- Also, there was a higher level of acceptance in matters concerning the social life of the respondents' children, as compared to their own social life. For instance, when asked whether they would accept their children studying in the same school and same classroom with ethnic minorities, be friends with, and even marry ethnic minorities, about 60% of the respondents gave a positive response. Yet again, there was a large discrepancy when comparing acceptance levels for South Asians in general to the levels of acceptance displayed towards other ethnic groups, such as European, American, Japanese and Chinese.

B. SELF-PERCEPTIONS AND REFLECTIONS OF ETHNIC MINORITIES

The findings from the focus groups held with ethnic minorities as part of the 2012 Study on Racial Encounters and Discrimination Experienced by South Asians show that:

• **On provision of goods, services and facilities**, difficulties are encountered most seriously in the context of opening bank accounts, renting residential premises and accessing public hospitals (because of the lack of translated materials and translation services). For restaurants and shops, South Asian participants reported that they had not been denied access *per se*, but some felt that they were treated differently compared to other [Chinese] customers.

• **On social interaction**, some long-term South Asians residents of Hong Kong reported that outright discrimination such as verbal abuse and derogative gestures had decreased.²⁶ However, the lack of public education on social inclusion means that there is still a lack of mutual understanding between local Chinese and ethnic minority groups. This is particularly apparent in the degree of understanding and mutual respect in the context of cultural or religious practices and their impact on the value systems and the work and social ethics of the South Asian community.

• One limitation of the 2012 Study on Racial Encounters and Discrimination Experienced by South Asians is that it **did not ask how the Chinese majority were perceived by the ethnic minority respondents**. This perception is of course important for informing the development of an integration policy which fully addresses the concerns and needs of all parties involved. This is done to some extent in some of the surveys carried out in the education sector, where students were asked to describe their perceptions of Hong Kong ethnic Chinese. These surveys are discussed in Chapter 3 of this Report on The Education of Ethnic Minorities.

In the report entitled, “*A Research Report on the Education of South Asian Ethnic Minority Groups in Hong Kong*,”²⁷ several observations were made about self-perceptions of ethnic minority students.

Identity

Ethnic minority students have a strong sense of ethnic pride with 90% indicating that they are proud of their ethnic origin. One of them explained that he was proud of the fact that people of his ethnic origin tend to stick together and help each other out in difficult times.²⁸ Another expressed that since his ethnic origin is part of his identity, it is of utmost importance to him regardless of the number of years he spends in Hong Kong.

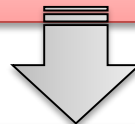
On identity, 63% of the students identified themselves by both their ethnic origin and as a Hong Kong person. Around 30% would identify themselves only by their ethnic origin; whereas 7.5% would identify themselves only as a Hong Kong person.²⁹ This speaks to the highly hybridised sense of identity among ethnic minority students in Hong Kong and the importance of harnessing and cultivating that hybridity to help facilitate a strong sense of belonging and affiliation with the Hong Kong identity in addition to their own ethnic identity.

Ability:

72% of the students disagreed that they were not as smart as Hong Kong students.³⁰



80% of ethnic minorities think they have special qualities or abilities that local Chinese students did not have; for example, their competence in the English language.



Some also stated that they were less shy than their Chinese counterparts and cited this as an advantage.³¹

Social Interaction:

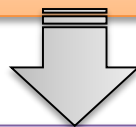
- Levels of Difficulty experienced in making friends with Hong Kong Chinese as reported by ethnic minority students:
- Grouped together, that suggests that 83% of the respondents found making friends with Chinese people a challenge.
- When asked about perceived reasons contributing to the difficulty of making Hong Kong Chinese friends (where participants were allowed to select more than 1 reason)³²:

• Level of Difficulty	• Percentage
• A bit difficult	• 50%
• Difficult	• 21%
• Very Difficult	• 12%
• Total	• 83%

Reasons contributing to difficulty	Percentage
Not knowing the Chinese language	70%
Unfriendliness of Hong Kong Chinese	37%
Cultural and religious differences	27%
Their ethnic origin	20%

Equality and Discrimination:

Ethnic minority students felt that Hong Kong people did not treat them equally. 73.5% of the students disagreed with the statement that Hong Kong people treat people of different races/ nationalities equally.³³



Over 60% of the respondents reported that they experienced discrimination.³⁴ This stands in stark contrast to the perceptions of Hong Kong people, amongst whom, only a small proportion believed racial discrimination to be a problem in Hong Kong.

KEY OBSERVATIONS

Racial prejudice in Hong Kong is pervasive as is clear from the many examples and prejudices revealed through the surveys carried out in recent years. However, there is a correlation between both age and education to awareness of racial discrimination, allowing us to better target groups that are less aware of the phenomenon, for suitable interventions to eliminate these prejudicial attitudes.

In overall terms, the highest levels of acceptance are displayed towards the Chinese and White ethnic groups, with the lowest levels being exhibited towards Indians, Pakistanis, and Nepalese. A lack of awareness was also exhibited during the surveys conducted towards definitions of ethnicity. Nonetheless, when asked, Hong Kong Chinese respondents claimed that they had no negative impressions of South Asians and stated that they would interact through work or school with South Asians where given the opportunity. In fact, they generally responded that they did not feel that South Asians were treated differently because of race or ethnicity.

It takes generations to change behaviour. Therefore, it is expected that equal opportunities legislation would take time to have a noticeable impact on attitudes social attitudes. First, behaviour is changed as a result of legislation. Change in attitudes follows. The golden rule is that it takes 3 - 4 generations for such a change to become embedded in the community as the norm.

Acceptance levels appear not to follow notions of fairness. Acceptance levels seem to be lower for areas of life which are closer to the heart and this results in distancing of ethnic minorities in spheres considered personal as compared to their acceptability in areas such as work or the neighbourhood.

The results of the 2012 Study on Racial Encounters and Discrimination Experienced by South Asians indicate that, contrary to conventional wisdom and Generation Y research, which suggest that acceptance of multiculturalism increases over generations, the perception of parents is that ethnic Chinese youngsters appear to be less tolerant of marriage to South Asians than their parents. This observation, however, must be qualified by the fact that it was made by parents based on their observations of their own children.

Ethnic minorities, however, felt that they encountered serious difficulties in access to public services, such as banking, healthcare and restaurants, and reported that although outright discrimination against them had ceased, there is still a lack of mutual understanding between them and Hong Kong Chinese groups.

In the 2012 Study on Racial Encounters and Discrimination Experienced by South Asians, ethnic Chinese participants in the focus group indicated that they observed fellow Chinese avoiding South Asians on public transport, citing unpleasant smells. However, participants claimed that this was not driven by discrimination but was rather a general reaction to unpleasant smell, regardless of a person's race and ethnicity. They also thought that South Asians generally had larger physiques, which led to their preference of not sitting next to them.³⁵ This represents a distancing exercise in an attempt to justify (discriminatory) behaviour on the basis of a legitimate or logical ground as opposed to race or ethnicity, which is now widely perceived as politically incorrect and

potentially irrational given the immutability of race. Whether these are mere perceptions or are objectively justifiable views begs the question. Since such opinion is the basis of a certain distancing behaviour that is commonly occurring, it suggests that the perception may be the result of unfamiliarity.

Racism is embedded as part and parcel of a racial hierarchy that is very much prevalent today even in Hong Kong. A racial hierarchy is predicated on the stratification of racial groups into a hierarchy on the basis that some races are superior than others. The findings from these studies are revealing and signal the need for much work to be done to break free of the racial hierarchy and its entrenchment of the superiority of some over the rest based on colour. Positive associations and interactions are the key to make the unfamiliar more familiar and to dispelling myths, mysteries and a lack of understanding and respect.

That language is overwhelmingly cited as the primary perceived reason for the difficulties encountered in developing such friends speaks volumes about the significance of enhancing access to quality education in the Chinese language. Moreover, the perception of nearly 40% that Hong Kong Chinese are unfriendly towards them reflects the need for enhancing opportunities for intercultural exchange through better policies and facilities.

A crucial component of the construction of race in any society is the self-perception of ethnic minorities, i.e. their sense of self, how they see themselves and what has also been termed as their 'self-concept'.³⁶ Ethnic minority students have a strong sense of ethnic pride with 90% indicating that they are proud of their ethnic origin. However, 63% identified as both an Ethnic Minority and Hong Kong person, suggesting a hybridised sense of identity. 83% of them, however, found making friends with Chinese people a challenge.

RECOMMENDATIONS
1. There is an urgent need for targeted policies to tackle misinformation, prejudice and a fundamental lack of understanding and awareness about Hong Kong's ethnic minorities in the short and longer-term.
2. There is an urgent need to implement measures to cultivate trust, understanding and mutual respect for ethnically diverse groups in the longer-term.
3. There is a need to research and understand the history of ethnic minorities in Hong Kong to generate discourse that is inclusive of ethnic minorities and properly documents the presence and contributions of ethnic minorities here. There is a need to consult with Hong Kong's ethnic minorities to understand how they wish to be referred to and understood in terms of aspects of their identity. The label 'ethnic minorities' needs to be replaced with a better alternative which includes dimensions of both, a Hong Kong identity as well as the ethnic identity the person chooses to identify with.
4. There is a need to target Hong Kong Chinese who have not attended higher secondary or post-secondary education to raise awareness about ethnic minorities, and their rights to equality and non-discrimination.
5. Whilst the research drawn on in this chapter highlights various aspects of Hong Kong's racism in practice and charts the development of an ethnic consciousness among Hong Kong's ethnic minority population, the studies also reveal the numerous research gaps and signal the need for the use of much improved research tools. Perhaps due to the fact that assessing discrimination is a matter of perception, which is a subjective element, it is difficult to test empirically without carefully designed and structured survey tools.

¹ Raquel Carvalho, 'IN PICTURES: Underprivileged children in Hong Kong revisited one decade later' *South China Morning Post* (Hong Kong, 18 July 2015) <<http://www.scmp.com/treasures>> accessed 1 August 2015.

² Home Affairs Bureau, *Consultative document on equal opportunities: A study of discrimination on the ground of race compendium of submissions* (Hong Kong Government Printing office 1997). It is entirely another matter that the purpose of the survey, which was to discern whether racial discrimination was a serious problem in Hong Kong, was itself problematic as an approach to addressing prejudice and inequality in society.

³ Alfred Chan and Eric Wong, 'Survey on public attitude and perceptions towards ethnic minorities' (*Gerontology Commons*, May 2005) <

<http://commons.ln.edu.hk/cgi/viewcontent.cgi?article=1004&context=apiasmp> > accessed 17 September 2015.

⁴ Ethnic Minorities Forum, 'Survey on Public Attitudes towards Racial Discrimination' (*Home Affairs Department*, 17 May 2005) <https://www.google.com.hk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CBwQFjAAahUK EwjG8oXK1_3HAhWFKKYKHYAHByw&url=http%3A%2F%2Fwww.had.gov.hk%2Ffru%2Fenglish%2Faboutus%2FEthnicforum%2FEthnicforum20050517paper2.doc&usg=AFQjCNHLe5qqdjgJxGsrbdUG PvmOr5upxg&sig2=6cE1HM0zHMKxpsi6zWleRQ> accessed 15 September 2015.

⁵ Home Affairs Bureau, 'Legislation Against Racial Discrimination – a Consultation Paper' (*Government Information Centre*, September 2004) <<http://www.info.gov.hk/archive/consult/2005/lard-e.pdf>> accessed 15 September 2015.

⁶ Unison Hong Kong, 'Unison's position on the Government's consultation document on legislation against racial discrimination', LC Paper No. CB(2)736/04-05(01)' (*Unison Hong Kong*, 26 January 2005) <<http://www.unison.org.hk/DocumentDownload/R01-Position%20papers/2004/ha1211cb2-763-1e.pdf>> accessed 15 September 2015, §5.2-5.3.

⁷ For further discussion of the consultation process and the passage of the Race Discrimination Ordinance, see the Chapter on The Rights of Ethnic Minorities Under the Law: Equality and Non-Discrimination of this Report.

⁸ Chan and Wong (n 3).

⁹ The responses to this statement need to be treated with caution as it is unclear whether respondents were under the impression that they were being asked about their willingness to send their children to schools which have predominantly ethnic minority children (formerly known as 'designated schools') or whether they took the statement as referring to the presence of any ethnic minority children in the school they send their children to.

¹⁰ See Chan and Wong (n3), p. 10.

¹¹ *ibid*, §3.1.

¹² See Chapter on The Rights of Ethnic Minorities Under the Law: Equality and Non-Discrimination of this Report.

¹³ Census and Statistics Department, 'Thematic Household Survey Report – Report No. 39 – Racial Acceptance' (*Census and Statistics Department*, 9 June 2009) <http://www.censtatd.gov.hk/fd.jsp?file=B11302392009XXXXB0100.pdf&product_id=B1130201&lang=1> accessed 15 September 2015.

¹⁴ This is true across all groups except for Africans.

¹⁵ The finding that Africans fare better in terms of racial acceptance compared with lighter skinned ethnic groups such as Indians, Pakistanis and Bangladeshis is at odds with the hierarchy of preferential treatment meted out on the basis of skin colour, which has been commonly experienced in Hong Kong by Africans.

¹⁶ The lower percentages seem to suggest that whilst they may consider it acceptable to have these groups as neighbours, they consider it less acceptable that they might have to communicate with them. It is important to treat this data with caution as it may be unreliable or at best, unclear as to what the percentage drop represents.

¹⁷ Centre for Civil Society and Governance at the University of Hong Kong, 'Study on Racial Encounter and Discrimination Experienced by South Asians' (*Equal Opportunities Commission*, 2012) <http://www.eoc.org.hk/EOC/Upload/UserFiles/File/ResearchReport/201203/Race_eFull%20Report.pdf> accessed 17 September 2015.

¹⁸ *ibid*, §3.44 and §3.53.

¹⁹ *ibid*, §3.33

²⁰ *ibid*, §3.32

²¹ *ibid* (n16), 13-14.

²² *ibid* (n16), 9.

²³ Unison Hong Kong, 'Racial Acceptance Survey Report' (*Unison Hong Kong*, March 2012) <<http://www.unison.org.hk/DocumentDownload/Researches/R201203%20Racial%20Acceptance%20Survey%20Report.pdf?subject=Enquiry%20for%20Research%20hard%20copy>> accessed 17 September 2015.

²⁴ This table and the analysis in this section benefited from the contributions of the Reviewing Editor of this Report, Ms. Shalini Mahtani, who offered insights into the structured nature of the discrimination, which was seemingly replicating a hierarchy of colour, impacting levels of acceptance towards minorities of a particular colour.

²⁵ *ibid* (n16), 9.

²⁶ Centre for Civil Society and Governance at the University of Hong Kong (n 16).

²⁷ Kerry Kennedy, JoAnna Phillion and Ming Tak Hue, 'Educational Provision for Ethnic Minority Students in Hong Kong: Meeting the Challenges of the Proposed Racial Discrimination Bill' (*The Hong Kong Institute of Education*, 17 September 2015) <http://www.ied.edu.hk/diversityproject/Outputs%20and%20downloads/Doc/First%20Interim%20Report_final.pdf> accessed 31 January 2015.

²⁸ Hok Bun Chan, Chan Kam-wah and Karamjit Sandhu, *A research report on the education of South Asian ethnic minority groups in Hong Kong* (Centre for Social Policy Studies at The Hong Kong Polytechnic University and Unison Hong Kong 2005) 52.

²⁹ *ibid* 55.

³⁰ *ibid* 51.

³¹ *ibid* 52.

³² *ibid* 54.

³³ *ibid* 53.

³⁴ *ibid* 55.

³⁵ *ibid* (n16), §3.32.

³⁶ Puja Kapai, 'The Doctrine of Substantive Equality and the Democratisation of Diversity, Moving Multiculturalism Forward' in Michael Kearney (ed), *From Conflict to Recognition: Moving Culturalism Forward (At the Interface/Probing the Boundaries)* (Rodopi 2011).

CHAPTER 2: LANGUAGE, INTEGRATION, IDENTITY AND BELONGING**OVERVIEW**

“Without having a curriculum geared towards non-native Chinese speakers, they are being condemned to menial jobs, continuing poverty and even crime.”¹

Over the course of the last one hundred and fifty years in the space of which the world has seen vast levels of migration, countries of immigration have stood differently on the spectrum of policies of multiculturalism and diversity that have been adopted by them. The sentiment behind these policies is invariably driven by the politics of need and capacity of the nations.

A country's approach to managing diversity is often apparent from its regulation of terms of entry into and residence in the territory, its core policies on population management, access to public services and utilities, and the quality of life it permits immigrants through these policies.

The policies usually impact the life course of immigrants in terms of respects, ranging from education, healthcare, employment and welfare. These policies often act as a litmus test as to whether the framework of governance is designed to boost, maintain or deter levels of immigration. Indeed, the policies can also be used to target particular types of migrants with desirable skillsets to fill gaps in the market.

On the whole, such policies serve as a defining marker of a country's approach to diversity, and may be aimed at accommodation, inclusion, integration or assimilation or are sometimes used as a tool to exclude immigrants generally or exclude particular groups of migrants.

After the Second World War, there was a proliferation of human rights treaties signaling the importance of the recognition of the equal worth and dignity of all human beings.² International bills of rights³ incorporated protections of various rights, including equality, non-discrimination, and minority rights to protect one's identity, language and heritage in recognition of the dignity inherent in all people.

Notwithstanding meaningful attempts to bridge cultural divides (mainly organised by NGOs and other private actors, including for example summer youth mentorship programmes run by universities)⁴, cultural barriers also dominate the local mind-set. Bhowan Tamang, a Nepalese student, grew up in Hong Kong and is now studying finance at university. However, he says that “people can easily tell that I am Nepalese, so I'm treated as an immigrant instead of as a Hong Konger.”⁵

A study on racial encounters conducted by the Equal Opportunities Commission in 2009 found that around 30% of the local population surveyed harboured negative feelings towards ethnic minorities in Hong Kong.⁶ There are many Hong Kong Chinese who have never encountered or interacted with ethnic minorities. There are numerous reasons for this, including the high concentration of ethnic minority groups in particular geographical districts and the segregated schooling system described in Chapter 3 on the Education of Ethnic Minorities.

These negative sentiments have a serious and longstanding effect on the way in which ethnic minorities are treated in Hong Kong and their day-to-day experiences.

For example, the consultation exercise in the drafting of the Race Discrimination Ordinance revealed the many instances of prejudice routinely faced by ethnic minorities on public transport, in hospitals, by landlords, and shopkeepers, many of whom refused to serve them or treated them poorly on account of their ethnic minority status (these experiences are discussed in the Chapter on The Rights of Ethnic Minorities Under the Law: Equality and Non-Discrimination of this Report).



A survey on the situation of racial discrimination in Hong Kong conducted by the Social Work Department of the Chinese University of Hong Kong reported first-hand experience of ethnic minority participants of the focus group of the study.⁷ In the case of employment, a security guard expressed that he felt uncomfortable about signing an employment contract written in Chinese. With respect to finding rental accommodation, there were complaints over property agents' unwillingness to help ethnic minorities search for homes for rent and landlords' refusal to rent properties to ethnic minorities. In the social service domain, participants opined that language barriers, insensitivity of government officials, and social workers and discrimination by community residents, were some of the key factors limiting their access to education, employment, vocational training, housing and other social welfare resources. Each of these issues is echoed and borne out by the anecdotal and empirical evidence presented in the subsequent chapters of this Report.



Another survey conducted by the Society for Community Organization in February 2004 revealed that more than a third of ethnic minorities has experienced communication problems with hospital staff, rendering them unable to fully express their health concerns and problems to the doctors and nurses. The survey revealed that such difficulty is not only experienced by the non-Chinese speaking ethnic minorities but is also shared by those who speak English as a second language.⁸



Paul O'Connor, Assistant Professor of the Department of Anthropology at the Chinese University of Hong Kong, interviewed 37 local young Muslims and many of them responded that, despite being able to speak fluent Cantonese, the fact that they were not able to read and write Chinese as well as Hong Kong Chinese was a significant barrier once they left school. O'Connor commented that the language barrier causes the minorities to feel increasingly peripheral despite their willingness to contribute to society.⁹

These sentiments and prejudice have potential for grave damage as we learnt sadly through incidents of cultural misunderstanding or prejudice which has led to loss of liberty and life of ethnic minority individuals. The cases of Hari Veriah who died at Ruttonjee Hospital and Limbu, who was fatally shot by a policeman despite being unarmed and posing no immediate threat to life or property are just two examples.



These attitudes can also impact accessibility to quality public services, for example, the inability of abused ethnic minority to access shelters or police assistance against domestic violence¹⁰, or lack of access to proper healthcare for medical and even racial profiling as experienced at the hands of police¹¹, immigration and customs officials. (These issues and examples are detailed in Chapter 6 on Marriage, Family and Domestic Violence, Chapter 7 on the Healthcare Needs of Ethnic Minorities and Chapter 8 on Crime and Law Enforcement of this Report).

These barriers have a grave and serious impact on the ability and capacity of minorities' enjoyment of quality of life and sense of belonging in Hong Kong.

In this chapter we will examine the challenges faced by ethnic minorities due to these barriers to integration, and more specifically, language and cultural barriers.

A. THE ROLE AND IMPORTANCE OF THE EDUCATION SYSTEM IN CULTIVATING BELONGING AND IDENTITY AND DEVELOPMENT OF LANGUAGE PROFICIENCY

Language plays an indispensable role in cultivating inclusion, a sense of belonging and social capital in the lives of minority population groups.¹² Mastery of the local language also strengthens opportunities for upward social mobility and the ability to access relevant services available in the public and private domains in areas which underscore possibilities for a good quality life.

89.5% of Hong Kong's population speaks Cantonese as their habitual language of communication.¹³ As we note in Chapter 3 on the Education of Ethnic Minorities, the flaws inherent in the current education system fail to facilitate effective learning of the Chinese language for ethnic minority students. This impacts their ability to participate meaningfully in Hong Kong society due to its knock-on effects¹⁴: ethnic minority students first struggle to enter tertiary education for failing to meet the minimum requirement in Chinese language; this impacts their chances to enter into highly skilled and professional job sectors. They then face difficulties in the job market because most employers require proficiency in Chinese as a matter of industry standard. As a result, most ethnic minorities end up in low-paying jobs and are overrepresented among those living in poverty. A lack of proficiency in Chinese also deprives them of access to important information and opportunities, in turn affecting their exercise and realization of fundamental rights,

including the rights to full and equal participation in the cultural and political life of Hong Kong alongside their Hong Kong Chinese counterparts.

Therefore, language skills are an important enabler in the sense that the enjoyment of other rights is possible only when one is aware of his rights and has the means to communicate his wish to enforce such rights. One's rights are not meaningful when one cannot, due to language barriers, scrutinise the actions of others which may affect those rights.

The drawbacks of the education system as it pertains to ethnic minorities are more fully set out in Chapter 3 on Education of Ethnic Minorities. For present purposes, the main issues are:

- The knowledge gap regarding the education system between ethnic minority and Chinese parents
- The poor accessibility of the education system to ethnic minorities
- *De facto* segregation of ethnic minority and Hong Kong Chinese students
- Low degrees of ethnic minority parental involvement in the school experiences of their children

Language difficulties play a major role in exacerbating each these problems. It can be immediately seen that language barriers (e.g. in the course of entrance interviews) can reduce the number of schools accessible to an ethnic minority student; that because of these language requirements and the fact that public sector government and aided schools (sometimes referred to as “mainstream schools”) may not be linguistically equipped to teach ethnic minority students, *de facto* segregation may occur; that the knowledge gap between ethnic minority and Chinese parents may be the result of much information about the education system being published and disseminated only in Chinese; and that parental involvement is difficult when there are language barriers to not only interpersonal communication with teachers but also in such mundane issues as understanding, complying with and signing off on school notices.

Given this spate of language-related education problems, it is encouraging to see the Government in recent years acknowledge the failure of its previous education policies for ethnic minorities, notably of the “designated school” system and of the refusal to implement a “Chinese as a second language” policy. The Government has commendably proposed new reforms aimed at reducing the impact that language difficulties have on the educational attainment of ethnic minorities. There are however, doubts as to the effectiveness of the proposed approach since it does not facilitate the teaching of Chinese as a Second Language. However, the effect of such reforms remains to be seen.

A.1 Primary and Secondary Education

Language barriers hinder the overall learning experience of ethnic minority children at school, especially when other subjects apart from language are taught in Chinese. Without a solid grasp of Chinese, it will naturally be difficult for ethnic minority students to acquire knowledge in other areas with Chinese as the medium of instruction (“CMI”). For this reason, many ethnic minorities children (or their parents) tend to prefer schools with English as the medium of instruction (“EMI schools”) or schools which were formally ‘designated’ as schools for non-Chinese speaking students (“NCS Students”). The difficulty in EMI schools, on the other hand, is the lack of a ‘Chinese as a Second Language’ (“CSL”) curriculum allowing ethnic minorities to learn Chinese on a competitive basis with their Hong Kong counterparts and earn a qualification in Chinese which is recognised by academic institutions or employers, allowing ethnic minorities to

meet the minimum entry requirements for university and meet the daily demands at work in Hong Kong.

The Challenges of Learning Chinese and the Lack of a CSL Curriculum

There is currently no CSL curriculum in local primary and secondary schools. The existing Chinese curriculum does not cater for the special learning needs of the non-Chinese speaking ethnic minorities. Even worse, there is currently no professionally trained teacher to support the language learning needs of non-Chinese speaking students.¹⁵

Since 2004, all non-Chinese speaking students are eligible to study in government-subsidised schools. These are mainstream schools using Chinese as the medium of instruction (“CMI schools”).¹⁶ Louisa Castro, a liberal studies teacher at a “designated school” says that her students cannot even write their schools’ names in Chinese after six years’ of Chinese language classes. Even Castro herself can speak fluent English, Cantonese and Mandarin but she has very limited proficiency in written Chinese.¹⁷

Ullah Rizwan finds that even though ethnic minority students achieved high grades in the General Certificate for Secondary Examination (GCSE) Chinese examination, they fail to obtain the Chinese proficiency that is required by higher education or expected by employers.¹⁸

However, most ethnic minorities students still go to the “designated schools”,¹⁹ the primary and secondary schools which used to be “designated” to receive extra funding to provide language support for linguistic minorities.

Parents understand that mainstream schools offer better chances for their children to develop Chinese skills and make Chinese friends, thus facilitating integration. However, various factors still push them towards the designated schools – since mainstream schools offer little language support and parents are worried about social isolation, racism and bullying to their children, most parents still choose the ‘designated schools’.²⁰ Over the years, there has been a gradual trend of decreasing number of non-Chinese speaking students attending government or aided schools. They opt for ‘designated schools’ instead.²¹ As a result, there are a greater proportion of ethnic minorities students in ‘designated schools’ than in mainstream schools. The student population of ethnic minorities at some of these schools even reaches 80-90%.²² This clearly presents challenges in terms of integration and developing mutual understanding between youths of different ethnicities.

The lack of suitable policies on multiculturalism and classroom diversity, including the lack of a CSL curriculum leaves, ‘designated schools’ intact even though they have been formally disbanded since 2013, fueling segregation for lack of a suitable alternative for parents of ethnic minority children.

As a result, inaccessibility in real terms to the education system and opportunities to learn Chinese effectively leads to barrier to admission in higher education institutions and consequently, impacts prospects for employment. This creates a vicious cycle of poverty that hinders social mobility of the minorities largely a result of failure by design in facilitating segregation which is due to a lack of training of suitably qualified teaching professionals to teach a multicultural student body about identity, language, heritage and equality.²³

A.2 Higher Education Opportunities

The required pass in the Hong Kong Diploma of Secondary Education’s (HKDSE) Chinese qualifications undoubtedly hinders ethnic minorities from entering into university. Indeed only 50% of Hong Kong Chinese students attained Level 2 in the examination. This just goes to show that the Chinese curriculum itself is challenging and needs to be

redesigned. In 2013, it was reported that only 120 ethnic minority students were admitted to degree courses.²⁴ The rest could only resort to vocational training programmes, associate degree programmes or other support programmes to receive further education. However, only 4 out of 160 vocational programmes provided by the Hong Kong Institute of Vocational Education are in English.²⁵ Other options, such as training courses run by the Vocational Training Council and the Employee Retraining Board are nearly all in Chinese as well. Project *Yi-jin*, a programme designed to help those who have not done well in the school systems, is only available in Chinese²⁶. Ethnic minority students are therefore left with very few options once they fail to meet the minimum requirement for university. For some of the vocational courses, even though they are listed as taught in English, they have compulsory Chinese course components to them, making satisfactory completion of the courses challenging for ethnic minority students.

A3. Impact of Language Proficiency on General Job Prospects

Ethnic minority graduates routinely face frustrations in the pursuit of their desired career paths. In Chapter 3 on the Education of Ethnic Minorities, we note the experience of Sammi, an ethnic minority student, who had to quit his internship at a fast food chain for failing to understand customer orders despite having completed the Chinese curriculum at a “designated school” and passed the GCSE Chinese Language examination. Such examples are numerous.

Louisa Castro, a teacher at one of the “designated schools” says that the language education system in Hong Kong is producing “semi-illiterate ethnic minority students, who struggle to learn their native language, then English and Chinese.”²⁷



Fermi Wong, Founder and Executive Director of Hong Kong Unison reported that she came across an ethnic minority student who made it through the degree course but was still rejected by many employers because of his lack of proficiency in Chinese. He ended up as an Activity Manager, earning approximately \$7,000 a month. According to Wong, most ethnic minority youth target manual occupations, shop work or catering industries by seeking positions as a waiter, construction worker or security guard. Moreover, they often lack promotion opportunities due to language barriers.²⁸



Another example is Faisal, a 22 year-old third-generation Pakistani who studied in one of the “designated schools” and attained an A in the GCSE Chinese Language examination. He was turned down time and again when he applied for a clerical and a delivery job. Seeing the numerous doors that have been shut in his face as a result of the ‘choice’ he made, he regrets having studied at one of the “designated schools.”²⁹

Jeffrey Andrews, a 28-year-old Indian, shares the same fate in chasing his dream to play professional football for Hong Kong, a career one would not have thought to require Chinese language skills. Born and raised in Hong Kong, Andrews speaks flawless Cantonese but is unable to read or write Chinese. He explained that he had to give up the dream of becoming a professional football player because he could not fill in the application form in Chinese. He later considered becoming a football coach and went to the Hong Kong Football Association, only to learn that he needed to pass an examination in Chinese. His frustration is shared by childhood friend, Abdul Aziz, a 23-year-old Pakistani, who explains that, *"It's like there's a [can] of food in front of us, but we cannot eat it because we don't know how to open it."*³⁰

Without an English application form, these youth were deprived of a chance to enter into their desired career or even to settle for something related due to the obstacle of having to pass the written Chinese test.

In 2013, the Hong Kong Football Association finally lifted the language bar and decided to resume the English tests, which were discontinued since 1998.³¹ Unfortunately for Andrews though, this does not mean that he is free to live his dream albeit belatedly because he is now nearly 30 years old and too old for the career.

As expected, those without a job who find themselves discriminated in the job market are far more distracted by the urgency of the need to survive and to find work to support themselves and their family that they do not have the time or energy to engage the present complaints mechanisms or legal system to avail of protections under the law (to the extent that they do exist).

Until we see examples of organisations and employers adopting more liberal and fairer recruitment policies, ethnic minorities will continue to encounter challenges in the process of securing employment.

Detailed statistics on the employment of ethnic minorities in different job sectors is explored more fully in Chapter 4 on the Employment of Ethnic Minorities.

B. WHO IS A HONG KONGER? INTEGRATION, IDENTITY AND BELONGING IN HONG KONG

B1. Citizenship Education and Policy Planning for a Multicultural Hong Kong

The language barrier poses one of the most significant barriers to leading a life that is full with numerous possibilities. Language competence is not only the lifeline to equal opportunities in education and employment or any merit based venture, but it is also indispensable in cultivating a strong Hong Kong identity and a sense of belonging. The inability to communicate in Chinese in Hong Kong significantly impacts access to information (although according to the Hong Kong Basic Law, Hong Kong has two official languages, one of which is English), which is key to active social and political participation in one's community, district and society more broadly. Notably, language is one of the criteria for assessment for eligibility for naturalization as a Chinese.

Access to Information

Due to language and cultural barriers, ethnic minorities often face difficulties in their daily lives. The effects of the barriers manifest themselves most acutely in access to information and public services and the exercise of their basic human rights.

Ethnic minorities are often found to be ill-informed about government services and policies and their entitlements because much in the information remains inaccessible to them due to the information being predominantly in Chinese and occasionally available in English. Given that there are a sizeable group of ethnic minorities who are not versed in either languages, and in light of the obligations under the Race Discrimination Ordinance, the Government has a duty to make certain information widely available in other languages corresponding to those understood by ethnic minority groups living in Hong Kong. This would facilitate enhanced and equal access to information and consequently, the exercise and enjoyment of human rights by ethnic minorities.

Areas in which the information deficit has most acutely been felt include social welfare and education. For example, most ethnic minorities do not know much about the public housing scheme in Hong Kong and are under the mistaken impression that they are not qualified to apply for public housing. Some others, however, who have successfully applied for public housing, may decide to give up their place nonetheless because they are allocated housing in the New Territories, which results in a loss of their support systems and community networks, which are concentrated in specific districts in Hong Kong.³² If Hong Kong were better integrated as a society with appropriate community support networks for people of different backgrounds provided for across Hong Kong, we would see a spread of different ethnic minority communities across various districts.

Some ethnic minorities, particularly women, lack information about the Comprehensive Social Security Assistance scheme and the circumstances of their entitlement under the scheme. When their families undergo a separation or sudden death of a spouse, the sole breadwinner in many instances as ethnic minority women tend to be unemployed or choose to stay at home and their children are hard-pressed to find jobs that pay decently, these families are overrepresented among those living below the poverty line.³³

Another acute area where the information gap pervades and has a detrimental impact is education. A survey conducted by Hong Kong Christian Services in 2011 found that 86.4% of ethnic minority students at primary level and 43.7% of ethnic minority students at the secondary level did not know about or misunderstood the “3-3-4 scheme” (whereby the HKDSE would replace HKCEE and HKALE).³⁴ Moreover, 91.3% of the ethnic minority students at primary schools and 82.9% ethnic minority students at secondary schools did not know about or misunderstood the minimum requirement of the Chinese Language for admission into university in Hong Kong. The respondents indicated that they mostly relied on parents and friends in the ethnic minority circle in obtaining information and making decisions about education. Whilst there are certainly other factors at play that create and perpetuate the information gap for ethnic minorities, including parental education levels, district of residence, gross family income and years of residence in Hong Kong, it appears that language and cultural barriers are invariably prominent obstacles that exacerbate lack of accessibility to information.

Although accessibility to opportunities to acquire language skills is vital, it is but one of the many factors that need to be considered in the formulation of policies for facilitating equality of access to components of a good and meaningful life; a life that is free from discrimination and is respectful of the inherent worth and dignity of all individuals regardless of colour, race, origin, etc. and most importantly, a life in which everyone is equally empowered to pursue their life goals. This requires not only teaching

all children their rights but also teaching children the importance of respecting other people's rights and that they are part of the machinery that enables effective protection of human rights. However, as a recent study commissioned by the Hong Kong Committee for UNICEF concluded, Hong Kong's education system has recently been found wanting in the area of children's rights education. Our teachers lack training in the teaching of human and children's rights and indeed, have some misperceptions about the notion that rights are inherent. Consequently, our children have a poor sense of understanding of their own rights and that they are not dependent on them complying with any conditions because rights are inherent.³⁵

Moreover, plenty of pedagogical approaches have emerged as successfully engendering the development of an identity that strengthens confidence in one's own heritage and ethnic identity, whilst securing a strong allegiance to the society in which one resides by developing mutual understanding, respect, trust and communication pathways. The emergence of such well-rounded individuals dedicated to their civic duties and ready to contribute to society, whilst fully cognizant and appreciative of their individual identity, is possible with a well-designed education system that accounts for the multifaceted and complex nature of identities in today's globalized context and prioritises citizenship education for a multicultural world. Indeed, Lorenzo Zuccas highlights the value and role of the classroom as a laboratory of multiculturalism.

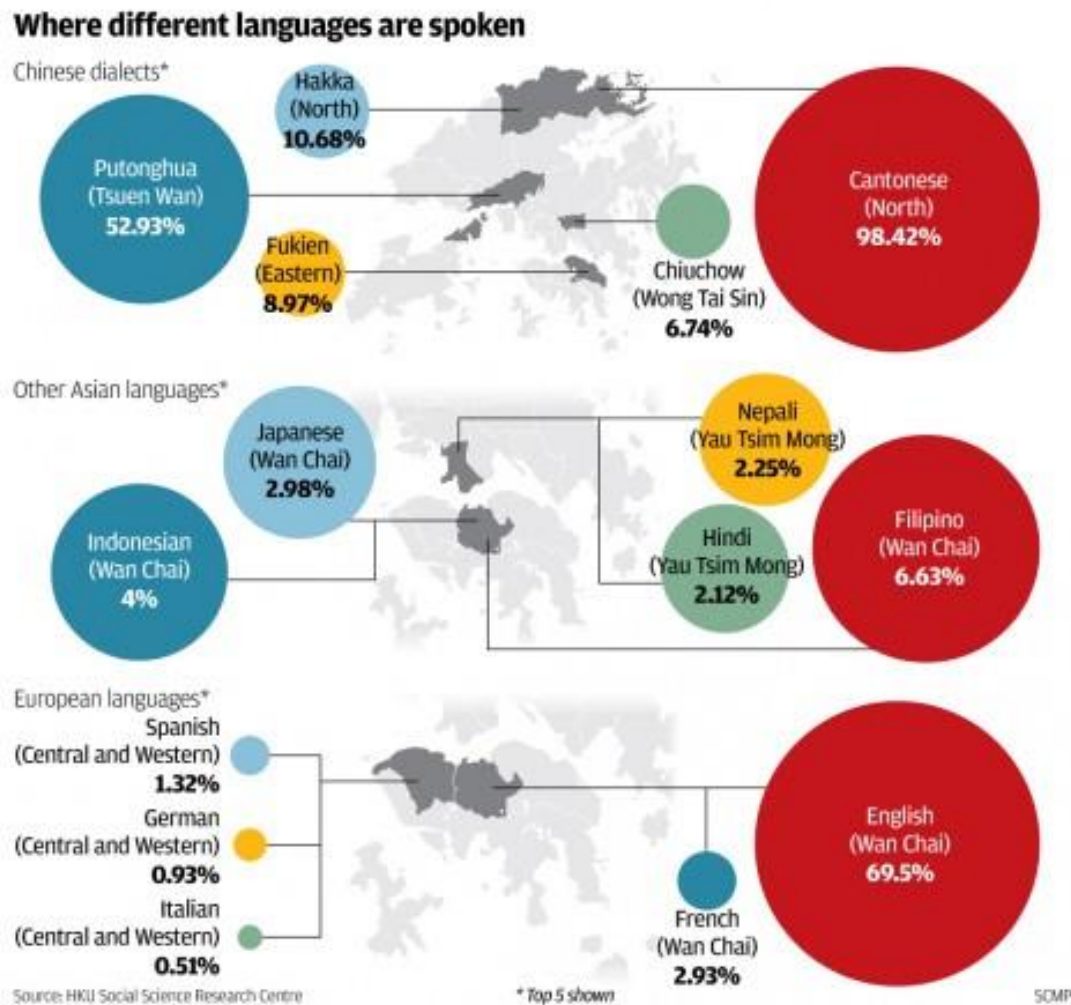
Living Together in Hong Kong or in a Parallel Universe?

Apart from education, such a government pays close heed to the other areas of the life of the nation to create spaces for the cultivation of values of understanding, respect, trust and communication. This requires a government to actively think about the nature and spaces for community dialogue and discourse, both in formal and informal spheres. It also needs to examine the living arrangements and demography of minority and majority communities and take these matters into account in urban and social planning and policymaking. For example, the gradual ghettoization of certain pockets in some of the districts in Hong Kong is important to reflect on. What are the implications of these ethnic enclaves emerging and what impact does it have on the resources and needs of that community, including, impacts on educational, health and welfare needs or impact on crime rates and the need for trained professionals.

Graph 2.1 below shows the geographical distribution of ethnic groups across Hong Kong's 18 districts, relative to the Hong Kong Chinese population residing in those districts in 2011.

Graph 2.2 below shows the denominations of different ethnic groups residing in each of the 18 districts in Hong Kong in 2011.

The linguistic diversity of the population of Hong Kong is represented in the *Figure 2.1* below.

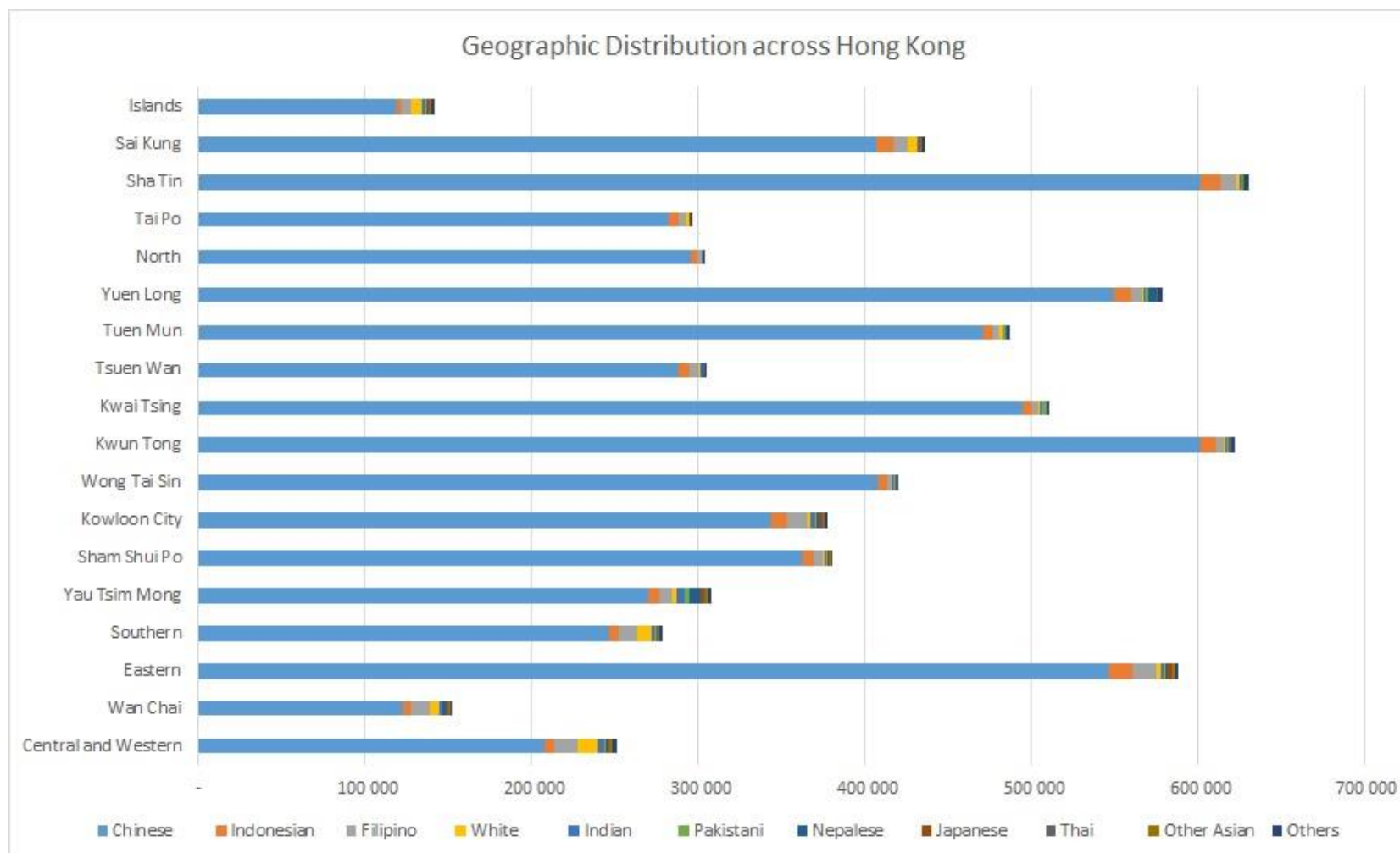
Figure 2.1 Where different languages are spoken in Hong Kong, 2015

Source: HKU Social Science Research Centre

Coupled with the inevitable consequences of the former designated school system, the continued impediments to accessing schools in the public system, limited employment opportunities confined to particular sectors, discrimination in housing and other areas of life, invariably means that ethnic minorities, their voices and their needs are invisible. Any exposure on the part of the Hong Kong Chinese population is fairly limited and is heavily influenced by media, stereotypes and the lack of an active inclusive citizenship policy.

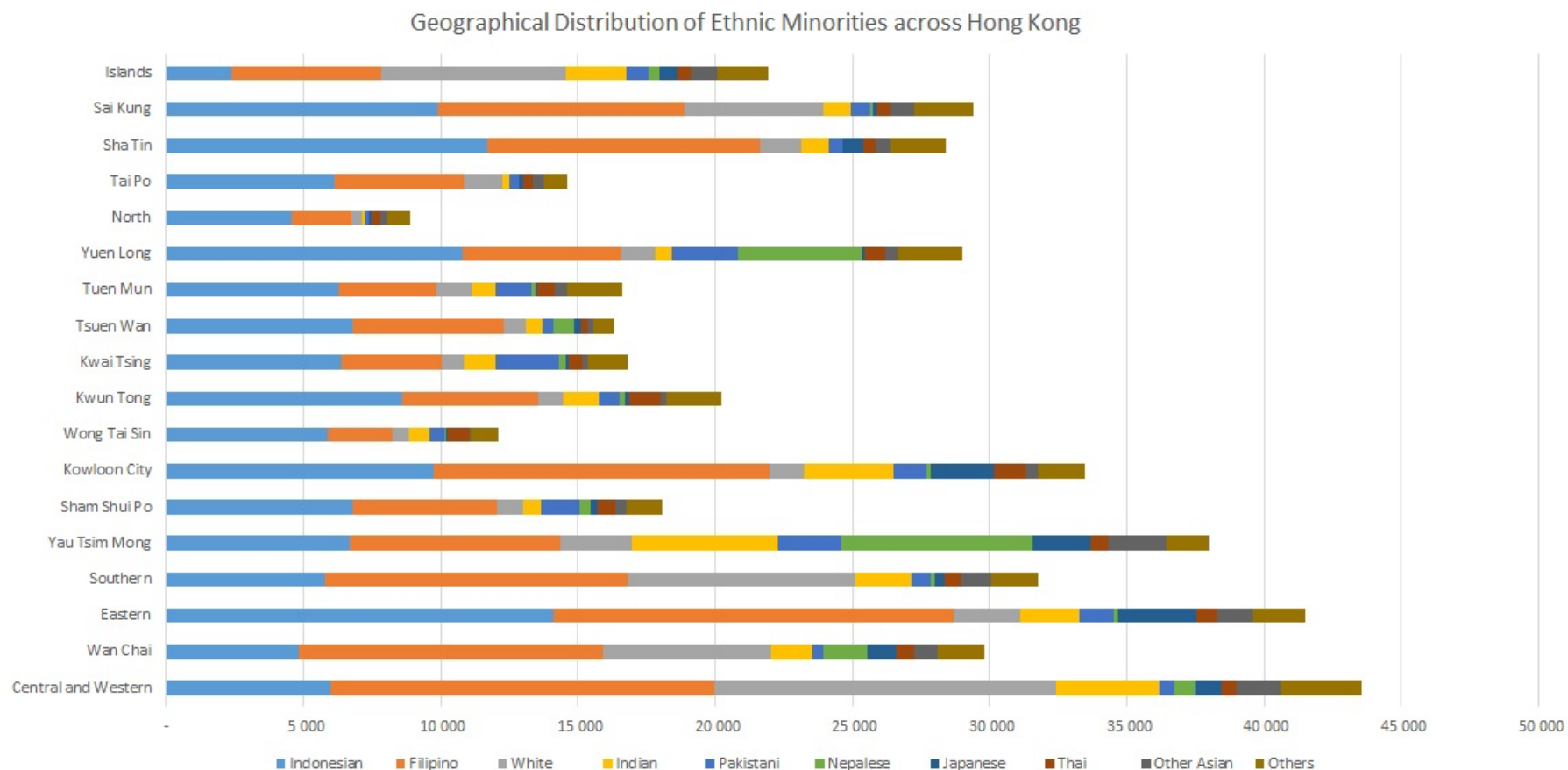
The demographic factors coupled with failed or absent policies make encounters between the ethnic minority community and the Hong Kong population a rarity. Unfortunately, such a lack of personalised interaction and experience is fertile breeding ground for the internalisation of negative stereotypes about minorities as portrayed by media, movies and newspapers. In recent years, these stereotypes have catapulted into mass media as a result of a lack of cultural competence and sensitivity or respect.

Graph 2.1 Geographical Distribution of Ethnic Groups Across Hong Kong's 18 Districts



Source: Census Online Access Tool

Graph 2.2 The Distribution of Ethnic Minorities in Hong Kong by District



Source: Census Online Access Tool

B2. Ethnic minorities and national education

Ethnic minority responses to the aborted national education curriculum proposed by the Government in 2012 provide further insights into how current education policymaking is not conducive to the proper integration of ethnic minorities into mainstream society.

What kind of curricular content would be suitable to help cultivate the desired qualities in citizens or nationals? The question of identity in the context of Hong Kong is more complex, given the tensions between a Hong Kong Chinese identity, a Chinese national identity and the values and qualities that are necessary for global citizenship given Hong Kong's unique history and current status as it transitions from a colony to a Special Administrative Region.

The purpose, need for and nature of civic education and curricular content for the post-80s generation and non-ethnic Chinese Hong Kong citizens and the question of their sense of belonging and the need for an organic approach to understanding complex and multiple identities has to be a part of the Government's list of priority areas to focus on in the coming decade.

This past year has speaks to the timeliness of the political awakening of Hong Kong's Chinese youth and their participation in the August 2012 movement against the proposed introduction of compulsory moral and national (MNE) education but also, the youth movement signalled an awakening among ethnic minority youths as well.

The MNE curriculum was criticised as inappropriate as it "emphasised too much on being Chinese and being part of China, instead of taking a more critical approach to citizen values", and also because it might create tensions between Chinese and non-Chinese children since the Chinese children might become overly nationalistic and look down upon ethnic minorities³⁶. Furthermore, critics also pointed out that there was no consultation with ethnic minority communities before the subject was proposed, and that there was a risk of pushing a "Chinese" identity upon an ethnic minority community with few links to China (as opposed to Hong Kong).³⁷

The textbooks and materials presently being used to teach liberal studies in Hong Kong have also been heavily criticised as problematic as the content stereotypes ethnic minorities as manual labourers and domestic workers³⁸ and may well affect ethnic minority students' sense of identity and self-respect due to being "scripted" into specific occupations. At the same time, it perpetuates existing stereotypes in the minds of young Hong Kong children.

The discussion over the introduction of compulsory moral and national education in Hong Kong and these controversial textbook examples being used to teach about diversity in Hong Kong have brought to the fore more crucial issues that warrant discussion in the Hong Kong context about the teaching of the history, role and contribution of ethnic minorities in Hong Kong. There is a global narrative emerging on the ethics of citizenship and how to conceive of nations and dignity in light of multiple allegiances and increasingly cosmopolitan identities. It is time that Hong Kong took note of this and teachers begin these important conversations about identity, belonging, respect and equality in the classroom.³⁹ Playing, working and living together in each other's company from early on in a school and neighbourhood environment present the best opportunities for ensuring the development of a healthy appreciation of diversity and the necessary life skills to adapt to different contexts.

B3. Identity and Integration: Obstacles to Applying for Chinese Nationality

Studies reveal that ethnic minorities harbour a very strong sense of ethnic pride although a large proportion of them (63%) also consider themselves a Hong Kong person alongside

their ethnic identity. This represents the hybrid identities characterised by those groups that are second, third and fourth generation ethnic minorities in Hong Kong. This is a major strength and ought to be tapped into to harness the potential of ethnic minority youth and to cultivate in them a sense of shared identity, civic responsibility and the desire to become contributors to Hong Kong's future. This also highlights why the term 'ethnic minority' does not do justice to the self-identification of this group.

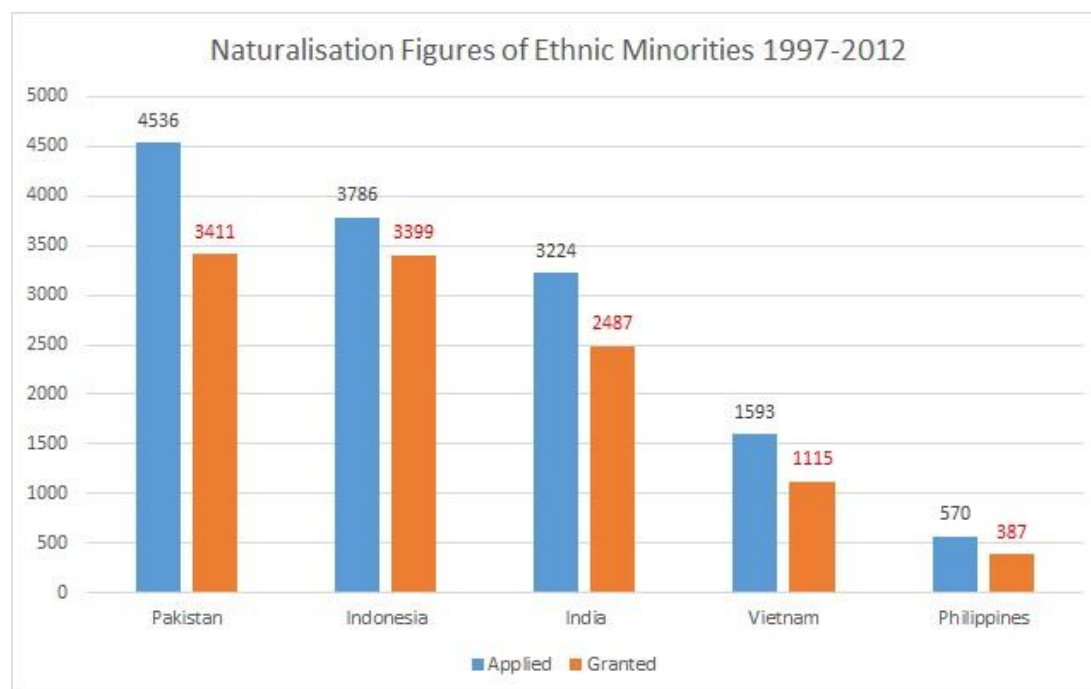
Moreover, the working assumption that school is a neutral place for children to learn the natural order of social interaction on a level playing field is now an outdated notion. Indeed, international literature on education has affirmed that categories such as race, gender, and disability, as socialised in society reproduce mirroring power dynamics in the school setting. In that sense, it is crucial for educators to be mindful of the reproduction of power structures and socialised gendered (and racial) norms at school and to assess the impact these might have on particular population groups. Various studies have shown Asian students to be more resilient than their 'local' counterparts. These findings have been affirmed in the Hong Kong context.⁴⁰ How ethnic minorities rate their subjective levels of life satisfaction is impacted by culture, which has been found to have a strong positive correlation with subjective wellbeing.⁴¹ Ethnic group membership impacts belonging and as well as cognitive processes, emotion, perceptions and behaviour.⁴² Indeed, identification with a minority group is an indispensable tool for coping with stress effectively and has an important bearing on satisfaction levels and wellbeing.⁴³

Identity itself is a complex construct that is layered and dynamic, and in a state of constant flux as an individual interacts with in-groups and out-groups and in different contexts. It is shaped by these social, interactive dynamics and life experiences. Individuals are therefore, embedded in a process of 'identity-matrixing' which is constantly ongoing.⁴⁴ This understanding of identity as open, unstructured and dynamic, yet subjected to the influences of hierarchy, structure and power is crucial in order to design appropriate settings for learning and interaction between children to foster healthy identities that contribute to high levels of life satisfaction and help them develop the necessary tools for resilience and to thrive in leading a fulfilling life.

The research drawn on in Chapter 1 of this Report on Perceptions and Self-Perceptions highlights various aspects of Hong Kong's racism in practice and charts the development of an ethnic consciousness among Hong Kong's ethnic minority population.

Despite being the second or third generation in Hong Kong, it is very hard for some ethnic minorities to apply for Chinese Nationality and the HKSAR Passport. The system is opaque and applicants are rarely notified of the reasons for refusal. One such example was Ms. Bibi Balqees, a Pakistani woman who has resided in Hong Kong for 30 years. She submitted her application to the Immigration Department but was rejected after waiting for a year without being given any express reasons of refusal.

Fermi Wong, Founder and the former Executive Director of Hong Kong Unison commented that one of the two most difficult requirements for ethnic minorities to satisfy was proficiency in the Chinese language.⁴⁵ She has argued that the present regime is unfair as there are examples of foreigners who do not know Chinese at all but are nevertheless granted Chinese Nationality: they include Mr. Allan Zeman, Chairman of Ocean Park and Mr. Michael Rowse, former Director-General of InvestHK. Other ethnic minorities who have experienced the application process said that the standards and requirements seemed to vary from one case to another, making it a frustrating process for them.⁴⁶

Graph 2.3 Total and successful applications by the top 5 ethnic minority nationality groups (1997-2012)

Source: South China Morning Post⁴⁷

Since 1997, there were a total number of 15,094 applicants who succeeded in obtaining the Chinese Nationality. As of the latest figures in 2015, Pakistani, Indonesian and Indian account for the top 3 in terms of numbers of successful applicants, representing 4437 (29.4%), 3711 (24.6%) and 3119 (20.7%) people respectively. Each year there are about 1,200 applicants seeking to naturalise as Chinese nationals, however, the Immigration Department has refused to release the figures for unsuccessful applications or the numbers pertaining to specific ethnic groups.

B4. Access to Public Services

In the context of medical care, doctors at public hospitals often fail to understand ethnic minorities fully due to the language obstacles, particularly given the lack of readily available interpretation services. Similarly, there is a failure to understand and appreciate cultural sensitivities pertaining to health-related decisions. This compromises the quality of healthcare that ethnic minorities have access to. This is discussed in further detail in Chapter 7 of this Report on the Healthcare Needs of Ethnic Minorities.

An additional but related identity attribute is the important but seldom-discussed role of religion in the lives of some ethnic minority groups. There is a clear lack of research on the breakdown of ethnic minority religious beliefs and as we know religion is an integral part of many people's identities and impacts their life course and decisions, including in relation to family, health, education and care of children and life and death in general.

In the context of burial services, the case of Mariasusai Andrews illustrates the difficulties faced by ethnic minorities. An Indian Christian, he could not secure a cemetery for his wife's ashes despite a six-month search. The family, being Christian, could use the Hindu cemeteries where many Indians are buried. Mr. Andrew's church was not a member of the Chinese Church Alliance, which controls the Christian cemeteries in Hong Kong. The Chinese Permanent Cemeteries rejected Mr. Andrew's application, saying the cemeteries under that organisation only take ethnic Chinese applicants as required by law.

An application to the government-run cemeteries was rejected, and he was informed of this result by a Chinese letter despite his original application being in English.⁴⁸

These intersecting attributes need to be better researched and understood in order to ensure that society does not inadvertently discriminate against, exclude, or suppress these less visible aspects of people's identity.

The lack of access to basic public services due to a lack of information and / or access in a language comprehensible to them imposes a serious burden on the ethnic minority communities in Hong Kong, undermining their human rights and right to equal access to a range of public goods and services and warrants immediate rectification if Hong Kong is serious about its commitment to the principles of equality and non-discrimination.

C. POVERTY AND CRIME

The most undesirable consequences of exclusion in society, particularly where that comes due to prejudice, lack of understanding and cultural barriers are poverty and crime. Poverty is not a choice. Many ethnic minorities work extremely hard to break free from the cycle of intergenerational poverty. However, to achieve this, they need equal and fair access to opportunities to compete and participate in society.

Our system has repeatedly failed ethnic minorities, generations of them now, in multiple spheres, from education, to employment and even their entitlement to enjoy their basic human rights through public services. When all legitimate means are exhausted, some people in society invariably fall prey to engaging in crime, drugs, and other illegal activities out of desperation to survive another day.⁴⁹ However, such experiences also have a deep-rooted link with a sense of marginality, life on the periphery and the exclusion from society. These feelings lead to an overwhelming sense of isolation and disconnectedness from the community. Issues of poverty and crime are explored more fully in Chapters 5 on Poverty and Social Welfare and 8 on Crime and Law Enforcement.

Unfortunately there appear to be more opportunities and reasons for misunderstandings to brew in light of the present context and the realities of discrimination and exclusion that are pervasive in Hong Kong. The minds of many have been soured by experiences that have emphasized the sad truth of Hong Kong's own hierarchical oppression of minorities on grounds of race. Only in a rare few have the struggles of discrimination and how hard they have had to fight to have their voices heard and needs addressed, given birth to an active and engaged citizen who is asking for answers and seeking change. The rest of Hong Kong's ethnic minorities, however, sadly seem to have resigned themselves to this ugly truth about the politics of race in Hong Kong. Although they do not speak up, they have not forgotten. The memories of the unpleasant experiences are rife. These memories need to be replaced with new memories of an inclusive Hong Kong. Through the rebirth of Hong Kong's commitment to its own home-bred immigrants, Hong Kong's ethnic minority population can begin their journey of belonging to Hong Kong as much as it belongs to them.

KEY OBSERVATIONS*General observations on Language*

1. Language is a vital factor in the integration of minority population groups.
2. Language is also the foundation for upward social mobility as it enables access to higher education and professional occupations.
3. Language is also important for access to public or social services.
4. Cultural barriers and other acts of discrimination create a sense of exclusion for many ethnic minorities.
5. The lack of a Chinese as Second Language policy in kindergartens and primary schools turn ethnic minority parents towards the de facto “designated schools” – and the attendant problems of de facto segregation and isolation.

Observations in specific aspects of life

6. The identity of ethnic minorities is often neglected by policymakers e.g. the proposed Moral and National Education curriculum ignores their unique background and identity.
7. Employers often require formal Chinese qualifications, even when it may not be necessary for the job duties.
8. Chinese nationality is often denied to ethnic minorities due to a Chinese language proficiency requirement.
9. In the context of access to public services, the expansion of translation services is to be commended, but there are concerns as to the quality of the translation and professional ethics of interpreters.

Identity and Belonging

10. The exclusion and barriers faced by ethnic minorities negatively impacts their ability to develop feelings of belonging and a healthy sense of self. This impacts their levels of life satisfaction due to the additional challenges they face. Many feel isolated, dislocated and social exclusion, contributing to a poor sense of self and resulting in stress. This has implications for education, health, employment, crime and overall wellbeing. It hinders the development of a positive Hong Kong ethnic identity, as this group most desires to self-identify as.

RECOMMENDATIONS

1. A comprehensive review of the language policy towards ethnic minorities is needed— particularly in the areas of education, employment and public services.
2. The Chinese as a Second Language framework that is currently being implemented requires regular evaluation and modification in light of feedback and outcomes for ethnic minorities.
3. The existence of the ethnic minority “Hong Konger” needs to be brought into the public consciousness
4. Awareness raising of rights and channels for accountability for violations of their rights among ethnic minorities.
5. High impact approaches to educating Hong Kong Chinese in rights to equality and non-discrimination for all people
6. Enhancing citizenship education for a multicultural Hong Kong, which requires rethinking the role and contributions of ethnic minorities in Hong Kong, including how they self-identify, how they develop sentiments of belonging and attachment and a healthy self-concept of ethnic identity. Such a curriculum should also introduce concepts of equality and non-discrimination and the equal dignity and inherent worth of all persons regardless of race, colour, national origin, ethnicity, sex, disability, sexual orientation or other distinctions. It also needs to cultivate a sense of civic duties towards each other and an inclusive and multicultural Hong Kong community as a whole.
7. Create opportunities for inclusive social, political and educational engagement across ethnic groups through facilitated interaction. Go beyond superficial celebrations of festivals and dance. Encourage genuine interest in cultivating understanding.

¹ Jennifer Ngo, ‘Ethnic Minority Pupils ‘Being Set Up To Fail’, *South China Morning Post* (Hong Kong, 7 July 2013) <<http://www.scmp.com/news/hong-kong/article/1276991/ethnic-minority-pupils-being-set-fail?page=all>> accessed 19 September 2015.

² Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A (III)).

³ This term is used to refer collectively to the International Covenants on Civil and Political Rights (999 UNTS 171) and Economic, Social and Cultural Rights (993 UNTS 3), which came into force in 1976.

⁴ Jennifer Ngo and Patsy Moy, 'The young mentors building bridges' *South China Morning Post* (Hong Kong, 15 July 2013) <<http://www.scmp.com/news/hong-kong/article/1282664/young-mentors-building-bridges>> accessed 19 September 2015.

⁵ Raquel Carvalho, 'IN PICTURES: Underprivileged children in Hong Kong revisited one decade later' *South China Morning Post* (Hong Kong, 18 July 2015) <<http://www.scmp.com/treasures>> accessed 1 August 2015.

⁶ For details please see Chapter 1 of this Report on Perceptions and Self-Perceptions.

⁷ Social Work Department at Chinese University of Hong Kong, 'Survey Results on Racial Discrimination in Hong Kong' (Chinese University, 28 October 2005) <<http://www.cuhk.edu.hk/cpr/pressrelease/051028e.htm>> accessed 1 August 2015.

⁸ Hong Kong Human Rights Commission and others, 'Views on the Race Discrimination Bill', LC Paper No. CB (2) 1168/ 06-07 (01)' (*Legislative Council*, February 2007) <<http://www.legco.gov.hk/yr06-07/english/bc/bc52/papers/bc520303cb2-1168-1-e.pdf>> accessed 1 August 2015.

⁹ Christy Choi, 'Lack of Chinese skills a barrier for minorities' *South China Morning Post* (Hong Kong, 14 January 2013) <<http://www.scmp.com/news/hong-kong/article/1127949/poor-chinese-skills-marginalising-locally-born-muslims>> accessed 19 September 2015.

¹⁰ Department of Applied Social Sciences and others, *A Research Report on the Social Situations of Ethnic Minority Women in Hong Kong* (Hong Kong Unison 2007) 40, which reveals that only 6% of ethnic minority victims of domestic violence would seek assistance from the police.

¹¹ Patrick Boehler, 'Hong Kong's ethnic minorities complain of racial profiling by police' *South China Morning Post* (Hong Kong, 24 November 2013) <<http://www.scmp.com/news/hong-kong/article/1364083/ethnic-minorities-complain-racial-profiling-police?page=all>> accessed 19 September 2015.

¹² See, for example, Sarah Carmichael, 'Language rights in education: a study of Hong Kong's linguistic minorities' (Centre for Comparative and Public Law, November 2009) <https://www.law.hku.hk/ccpl/pub/Documents/Occasional_Paper_19.pdf> accessed 19 August 2015.

¹³ Census and Statistics Department, '2011 Hong Kong Population Census' (*Census and Statistics Department*, 14 May 2015).

¹⁴ See e.g. Rizwan Ullah, 'A critical review on the provision of Chinese language education for NCSS in Hong Kong' (PhD thesis, University of Hong Kong 2012) 131-132.

¹⁵ *ibid.*

¹⁶ Carmichael (n 12) 12-19.

¹⁷ Li Yao, 'Struggling to understand' *China Daily* (Hong Kong, 8 November 2013) <http://www.chinadailyasia.com/news/2013-11/08/content_15097477_2.html> accessed 19 September 2015.

¹⁸ Ullah (n 14).

¹⁹ Legislative Council, 'Examination of Estimates of Expenditure 2013-14, paper no. EDB150' (*Legislative Council*, 2013) <http://www.legco.gov.hk/yr12-13/english/fc/fc/w_q/edb-e.pdf> accessed 1 August 2015, 445-449.

²⁰ Oxfam Hong Kong, 'Second-language education policies abroad and in Hong Kong' (*Oxfam Hong Kong*, 2014) <http://www.oxfam.org.hk/content/98/content_18555en.pdf> accessed 1 August 2015.

²¹ Ullah (n 14) 17.

²² *Ibid.*, 15.

²³ Oxfam Hong Kong (n 20) 27.

²⁴ York Chow, 'Ghetto treatment blocks advance of Hong Kong's ethnic minority students' *South China Morning Post* (Hong Kong, 26 September 2013) <<http://www.scmp.com/comment/insight-opinion/article/1317614/ghetto-treatment-blocks-advance-hong-kongs-ethnic-minority>> accessed 19 September 2015.

²⁵ Dennis Chong and others, 'Relieved Ishaq a major star within a minority' *South China Morning Post* (Hong Kong, 21 July 2012) <<http://www.scmp.com/article/1007316/relieved-ishaq-major-star-within-minority>> accessed 19 September 2015.

²⁶ Project Yi Jin, targeting Form 5 school leavers and adult learners aged 21 or above, is a scheme to promote "lifelong learning". Students who successfully complete the programme will be awarded a full certificate which has been assessed by the Hong Kong Council for Academic Accreditation as comparable to five passes in HKCEE. The medium of instruction of Project Yi Jin courses is Cantonese. Chinese is used for course materials, assignments and examinations. Currently, no special tailor-made courses with English as the medium of instruction are provided for ethnic minorities.

²⁷ Li (n 17).

- ²⁸ *ibid.*
- ²⁹ *ibid.*
- ³⁰ Simpson Cheung, 'Ethnic minority footballers see a straight line to goal at last' *South China Morning Post* (Hong Kong, 12 June 2013) <<http://www.scmp.com/news/hong-kong/article/1258664/ethnic-minority-footballers-see-straight-line-goal-last>> accessed 19 September 2015.
- ³¹ *ibid.*
- ³² Hong Kong Council of Social Service, 'Policy Bulletin No. 15: 少數族裔在香港' (*Hong Kong Council of Social Service* 2013) <<http://www.hkcss.org.hk/uploadFileMgmt/pb15.pdf>> accessed on 20 July 2015.
- ³³ See Chapter 5 on Poverty and Social Welfare of this Report.
- ³⁴ Hong Kong Christian Service, '少數族裔青少年希望感與生涯規劃調查' (*Hong Kong Christian Service*, 19 January 2011) <<http://www.hkcs.org/cnews/c340/c340a1.html>> accessed 3 August 2015.
- ³⁵ Puja Kapai et al, A Comparative Study on Children's Rights Education: Implications for Policy Reform in Hong Kong, Policy Brief (Faculty of Law, The University of Hong Kong) June 2015, www.hku.hk/ccpl/publications accessed 31 August 2015.
- ³⁶ South China Morning Post, 'Ethnic Minority Students and National Education' *South China Morning Post* (Hong Kong, 18 April 2012) <<http://www.scmp.com/video/1601936/ethnic-minority-students-and-national-education>> accessed 1 August 2015.
- ³⁷ *ibid.*
- ³⁸ Liz Jackson, 'No place in liberal studies for ethnic stereotypes and overgeneralization' *South China Morning Post* (Hong Kong, 9 July 2014) <http://www.scmp.com/comment/article/1550397/no-place-liberal-studies-ethnic-stereotypes-and-overgeneralisations>; Shirley Zhao, 'Hong Kong textbooks contain negative stereotypes on cultures and religions, researcher warns' *South China Morning Post* (Hong Kong, 23 June 2014) <<http://www.scmp.com/news/hong-kong/article/1538465/textbooks-taking-narrow-view-liberal-studies-hku-researcher-warns>> accessed 19 September 2015.
- ³⁹ See Puja Kapai, *Civic Education for the Non-ethnic Chinese Hong Kong Person*, Puja Kapai (ed.), Kwame Anthony Appiah, A Decent Respect: Honour in the Life of People and of Nations, Hochelaga Lectures 2015 (Faculty of Law, The University of Hong Kong, 2015).
- ⁴⁰ Celeste Y. M. Yuen, 'Ethnicity, level of study, gender, religious affiliation and life satisfaction of adolescents from diverse cultures in Hong Kong' (2013), *Journal of Youth Studies*, 1.
- ⁴¹ Ulrich Schimmack, Phanikiran Radhakrishnan, Shigehiro Oishi, Vivian Dzokoto., and Stephan Ahadi, 'Culture, Personality, and Subjective Well-Being: Integrating Process Models of Life Satisfaction' (2002) *Journal of Personality and Social Psychology*, 82 (4), 582-593; and Maykel Verkuyten 'Life satisfaction among ethnic minorities: the role of discrimination and group identification' (2008) *Social Indicators Research*, 89, 391-404.
- ⁴² M. J. Rotherham and Jean Phinney, 'Introduction: definitions and perspectives in the study of children's ethnic socialization.' in Jean Phinney and M. J. Rotheram, (eds.) *Children's Ethnic Socialization*, 1987, London: A Sage Focus Edition, 10-28, at 13.
- ⁴³ Robert Outten, et al., 'Coping Options: Missing links between Minority Group Identification and Psychological Well-Being' (2009) *Applied Psychology*, 58 (1), 146-170.
- ⁴⁴ Puja Kapai, 'The Doctrine of Substantive Equality and the Democratisation of Diversity' in Michael Kearney (ed.), *From Conflict to Recognition: Moving Multiculturalism Forward*, (Rodopi Press 2012), drawing on Kearney and Adachi's work in the same volume.
- ⁴⁵ Sina News, "Difficult to satisfy Chinese language requirements" (Translated title) (14 August 2012).
- ⁴⁶ *ibid.*
- ⁴⁷ John Carney, 'Figures reveal thousands from ethnic minorities have won naturalization' *South China Morning Post* (Hong Kong, 16 December 2012) <<http://www.scmp.com/news/hong-kong/article/1106498/figures-reveal-thousands-ethnic-minorities-have-won-naturalisation>> accessed 28 August 2015.
- ⁴⁸ Jennifer Ngo, 'Indian Christian man can't find burial place for his wife in Hong Kong' *South China Morning Post* (Hong Kong, 21 October 2013) <<http://www.scmp.com/news/hong-kong/article/1336221/indian-christian-man-cant-find-burial-place-his-wife-hong-kong?page=all%3E%3B%20%20NGO%20takes%20up%20case%20of%20prodigy's%20schooling>> accessed 19 September 2015.
- ⁴⁹ Oriental Daily, "少數族裔出路窄 易為錢「賣命」", *Oriental Daily*, 8 June 2013.

CHAPTER 3: THE EDUCATION OF ETHNIC MINORITIES

OVERVIEW

The Hong Kong government bears the responsibility to guarantee equal access to education without discrimination to all children. This is an international human rights obligation protected under a number of international treaties to which Hong Kong is a party, namely, the United Nations Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Rights of Persons with Disabilities (CRPD). At the domestic level, these rights are guaranteed through provisions in the Basic Law, the Hong Kong Bill of Rights Ordinance, and the Race and Disability Discrimination Ordinances (these obligations are further discussed in the Chapter on The Rights of Ethnic Minorities Under the Law: Equality and Non Discrimination, of this Report).

The commitment to ensure equality of access to education is particularly important for ethnic minority children in Hong Kong. As a group, they must overcome the primary barrier to equal access, that of language, which stands between them and the realization of a multitude of basic rights, including equal access to higher education and employment opportunities across various sectors and levels (including the civil service), and equal access to a range of public services, including healthcare.

To ensure that ethnic minorities can exercise their fundamental rights and enjoy their freedoms to the fullest extent guaranteed under Hong Kong's international obligations and the Basic Law, there must be an effective public education system that provides meaningful access to learning opportunities for ethnic minorities. This is so notwithstanding the existence of a burgeoning network of private international schools in Hong Kong, often described as a possible solution to address the challenges that impact educational opportunities and outcomes for ethnic minority children in Hong Kong at present.

These schools charge fees which are beyond the means of most ethnic minority families. Moreover, they are subject to a different governance framework and have a great deal of autonomy in the curriculum and goals. As such, their business-model and the curricula that are taught at these schools, incorporating various international accreditation oriented assessments, including the General Certificate of Examinations (GCSE) or GCE Advanced Levels (A Level) or the International Baccalaureate (IB) do not always prepare children for a future in Hong Kong. Moreover, the existence of private schools is to facilitate the exercise of choice for those who wish to and can afford to do so. It does not absolve the government of its obligation to provide an accessible and high quality public education system geared towards equipping young people with skills and attributes necessary for adult life in Hong Kong or elsewhere.

In a cosmopolitan age with increasingly diverse populations and increased migration into and out of Hong Kong, the emphasis of a robust education program must be on offering diverse and multicultural learning environments to build trust, understanding and friendship among different communities, and on delivering a curriculum to help minorities in the system master various skills in a manner that is accessible to them. It should also provide ample opportunity to interact with the dominant

population group in Hong Kong, so that the children may form bonds of trust and lifelong friendships.

Teaching groups with vastly differing learning backgrounds or support resources at home may, in some instances especially in the early years, require a different curriculum that is phased out gradually once the students using the special curriculum reach the outcomes tied to a particular stage of development that is comparable to their peers.

For example, it has been widely documented now that the use of mother-tongue for the purposes of instruction in certain subjects, including language, in the formative years boosts the abilities of ethnic minority students to reach outcome-oriented goals. This literature suggests that exposure to language in appropriate learning arrangements to facilitate the acquisition of key language attributes plays a critical role in the development of functional competencies across multiple languages.¹ These findings have important implications for education systems worldwide. In Hong Kong, this necessitates detailed planning of a curriculum that is designed and tailored to the learning pace and mediums of language instruction that are effective in language acquisition and this may be specific to how the Chinese language is taught. Through an evidence-based approach to planning and setting appropriate learning outcomes, ethnic minority children can benefit from the opportunity to learn the Chinese language in a meaningful manner so that they can exercise an effective functional competency in the Hong Kong context.

As the Chapter on Key Demographic Data depicts, the median age of ethnic minorities is generally lower than that of the whole population of Hong Kong. The groups representing the biggest gaps between the median age of ethnic minorities and that of the whole population of Hong Kong are the Pakistani, Nepalese and Indonesian population groups, with a difference of 17.5 years, 9.6 years and 8.7 years respectively, in 2011.²

Table 3.1 showing difference in median age between the whole population of Hong Kong and ethnic minority groups with the largest difference.

Number of Years of Difference Between Median Age of Hong Kong Population and Ethnic Group	Pakistani	Nepalese	Indonesian
	17.5	9.6	8.7

Source: Hong Kong Council of Social Service, Policy Bulletin: Issue Fifteen, Ethnic Minorities in Hong Kong' (Hong Kong Council of Social Service, 30 October 2013)

Despite a larger proportion of persons of school-going age among ethnic minority populations, the percentage of ethnic minority children attending school is generally lower than that of persons of school-going age in the overall population. This reinforces the significance of fulfilling the promise of equal access to education given its significant and potential impact on ethnic minority children in Hong Kong in the near future.

Presently, there are several key barriers to the enjoyment of equal rights to education by ethnic minority children in Hong Kong.

- (1) Lack of equal access to appropriate schools. Ethnic minority children often face restrictions in their choice of school at all levels of education.
- (2) Systemic discrimination in the school system. This is evidenced by the attitudes of the teaching and management staff of educational institutions

- (3) The *de facto* racial segregation of ethnic minority students from Chinese students in public schools, which continues in practice as a result of the now disbanded ‘designated schools’, which were originally set up to receive non-Chinese speaking students to teach them Chinese at a different pace. The learning outcomes from such programmes were not effective in enhancing the ability of ethnic minority students’ competence in Chinese.
- (4) The challenge of multicultural classrooms. This is evidenced by teachers’ lack of formal training in teaching a multi-ethnic student body, including strategies for classroom management, parental involvement and teaching non-native language learners in Chinese and English.
- (5) Lack of Chinese as a Second Language (“CSL”) curriculum. Teaching Chinese to ethnic minority children so that their learning outcomes are on par with their local counterparts by the time they graduate from secondary school is a crucial component of meeting the equal access challenge and ensuring a level playing field. While there is still no CSL curriculum, in 2014, the Government took steps to introduce a Chinese as a Second Language learning framework. However, it is too soon to tell whether the framework has improved learning outcomes for ethnic minorities and if so, to what extent. Having introduced broad exemptions for language in the Race Discrimination Bill before it was enacted into law, the Government lost an opportunity to conduct large-scale inquiries into and possibly, to instigate reforms in this area.³
- (6) For special education needs children who are ethnic minorities (EM SEN students”), there is a critical lack of English medium of instruction schools. This has exacerbated their developmental delay for a number of reasons but primarily, the additional burden of learning in Chinese in the only spaces available for EM SEN students in the public sector schools and the long wait for the very limited spaces in English medium of instruction schools catering to this group in the private sector has effectively left EM SEN students’ equal right to education grossly unmet.
- (7) The impact of the failure to provide an inclusive learning environment, free from discrimination, where teachers are trained in delivering teaching materials in an accessible and respectful manner that is sensitive to the needs of ethnic minority and EM SEN children, and a failed language instruction policy is multifarious and carries serious long-term ramifications.

The overarching effect of these barriers on ethnic minority communities cannot be overstated. Studies show these issues are deeply interconnected and self-reinforcing.⁴ Together, they frustrate ethnic minority children’s right to education. The right to education is a “multiplier right”⁵ – the non-fulfillment of this right often affects realization of other rights, such as the freedom of speech, freedom to work in one’s desired occupation⁶ and the ability to participate fully in community and public life.

A. EDUCATION STATISTICS – THE PROBLEM OF ACCESSIBILITY

A1. Pre-Primary Education

At the pre-primary level, ethnic minorities have lower school-attendance rates than the Chinese population. In particular, Pakistani and Nepalese children are almost two times less likely and Filipino children two and a half times less likely, to attend pre-school compared to Chinese children.

Table 3.2 School Attendance Rate Among Children Aged 3-5 by Ethnicity in Hong Kong in 2011

School Attendance Among Children Aged 3-5	
Ethnicity	% of children not in school
Chinese	8.5
Nepalese	14.6
Pakistani	16.1
Mixed (Chinese and other Asian)	17.1
Filipino ⁷	19.4

Source: Hong Kong Institute of Education.⁸

Furthermore, not only are ethnic minority children less likely to attend kindergarten, of those that do attend pre-schools, their choices are unduly restricted. According to a Survey on Kindergarten Education for Ethnic Minority Students in Hong Kong published by Hong Kong Unison in 2012 (the “Unison Kindergarten Survey 2012”), 70% of the surveyed kindergartens admitted a total of 1213 ethnic minority students in the 2011-2012 school year.⁹ However, while some schools admitted only one ethnic minority student, others had up to 124 ethnic minority students, i.e. 10% of the total number of ethnic minority students admitted by the sampled kindergartens.¹⁰

The table below shows a breakdown of the number of ethnic minority students by class:

Table 3.3 Average Number of Ethnic Minority Students per School by Class Level

Year	Total No. of Ethnic Minority Students	No. of Ethnic Minority Students per School on Average	Range: No. of Ethnic Minority Students in a School
K1	382	5.38	1-43
K2	447	6.30	1-53
K3	384	5.41	1-44
Total	1213	17.08	1-124

Source: Unison Kindergarten Survey 2012

The following table shows a breakdown of the 1,213 students enrolled in the surveyed schools, by ethnicity:

Table 3.4. Breakdown of the 1,213 students Enrolled in the Surveyed Schools, by Ethnicity

Ethnicity	Number of Students	% of Students
Pakistani	407	35.5%
Filipino	214	18.7%
Indian	191	16.7%
Nepalese	172	15.0%
Indonesian	56	4.9%
Thai	32	2.8%
European	14	1.2%
North American	9	0.8%
African	5	0.4%
South American	2	0.2%
Others	45	3.9%

Source: Unison Kindergarten Survey 2012

The Unison Kindergarten Survey 2012's findings suggest that a large proportion of ethnic minority children who attend kindergarten do so at a few select kindergartens. The ethnic minority student population was concentrated in 8% of the surveyed kindergartens. In more than half of this 8%, concentrations of ethnic minority students exceeded 50%. Such racial segregation is a form of racial discrimination and a violation of the Race Discrimination Ordinance.

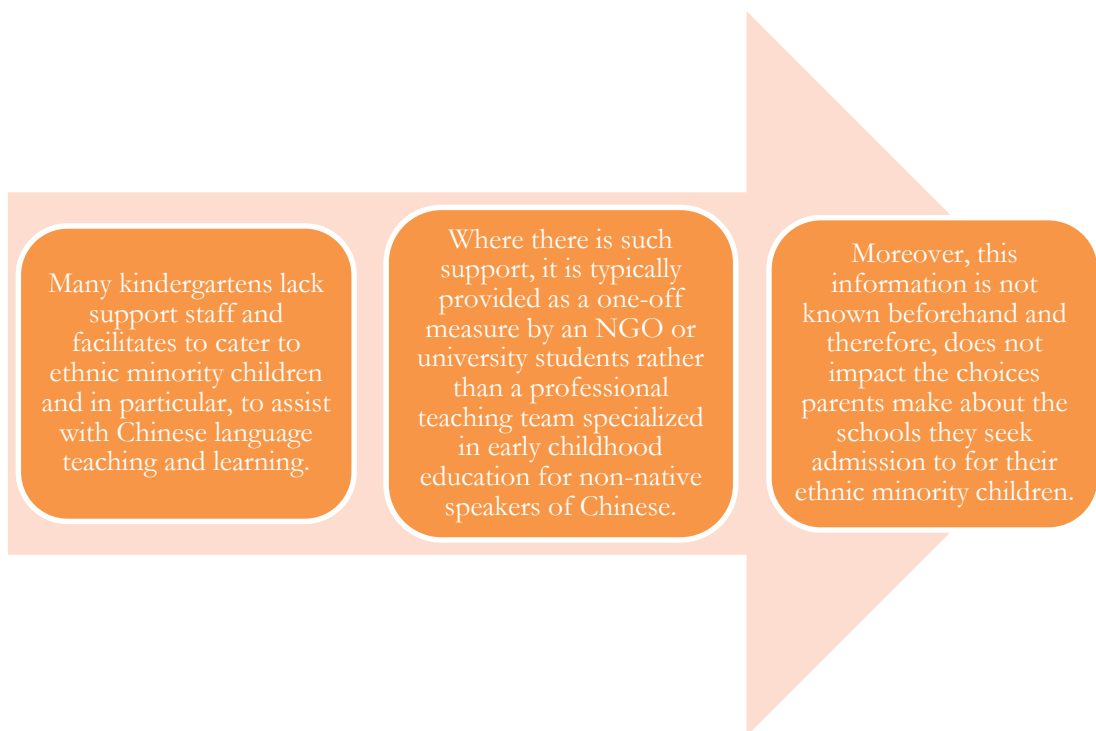
Whilst that survey did not specifically examine the cause underlying the overconcentration of ethnic minority children in specific kindergartens, a more recent study highlights the barriers to kindergarten accessibility faced by ethnic minority communities. In 2015, Hong Kong Unison's "Research on Kindergarten Support and Attitude towards Ethnic Minority Students in Hong Kong" (the "Unison Kindergarten Support Report 2015")¹¹ found that the following factors contributed to the concentration of ethnic minority children in select schools:



Many kindergartens' admission requirements overwhelmingly place ethnic minority children at disadvantage. For example, many needed to have Chinese speaking skills by age 3 and a preference was expressed for ethnically Chinese children.

Parents reported they had no choice but enroll their children in the schools with higher concentrations of ethnic minorities since they are the only places their children could enter.

Kindergartens were reluctant to even give an application form to non-Chinese parents



As a result, with few options to exercise, ethnic minority children enter select schools, which have an overrepresentation of these groups. For the same reasons, ethnic minority children also receive predominantly English education in kindergarten.¹²

These challenges also meant that some ethnic minority children were unable to attend kindergarten at all, affecting their development in social skills and language.¹³ The kindergartens which admitted ethnic minority students encountered various difficulties and challenges, including the students' varying Chinese abilities, language barriers in communicating with parents, and the lack of support from the Government for training teachers.¹⁴

A2. Primary Level

Official data from the 2011 Census shows that the school attendance rate of ethnic minority schoolchildren at the primary level (i.e. aged 6-11) is 100%, with attendance also at 100% for the population as a whole. Considering that the attendance rate for ethnic minorities was similarly high at the 2006 by-Census (99.5%), Hong Kong's compulsory primary education policy has been successfully implemented.

Table 3.5 School Attendance Rate of Ethnic Minorities and the Whole Population at Primary Level in 2006 and 2011

		School Attendance Rate of Ethnic Minorities		School Attendance Rate of the Whole Population	
		2006	2011	2006	2011
Primary Education	6-11	99.5%	100.0%	99.9%	100.0%

Source: 2006 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 5.1¹⁵

The 100% school attendance rate should not obscure the fact that ethnic minority schoolchildren continue to face difficulties in primary school admission, particularly regarding their choice of school. Many of the direct subsidy schools specified by the Education Bureau to be providing education for non-Chinese speaking students, did not in fact admit such students because most of their lessons are taught in Chinese.¹⁶

As stated above, ethnic minority parents have much difficulty in accessing relevant information. Official information concerning primary schools is only available online (although hard copies of this information are available, these are in Chinese only); moreover, information about a school's characteristics (school management, learning and teaching plan, students support, etc.) is available only in Chinese.¹⁷ Ethnic minority parents may lack technological skills or regular access to technology and therefore, may not be able to access the requisite information regarding schools, admissions policies, and other information to make an informed decision about which school to send their children to.

Table 3.6: Numbers of Primary Education Attendees and Numbers of Secondary Education Attendees by Ethnicity, 2013-15

	Indonesian	Filipino	Indian	Pakistan	Nepalese	Japanese	Thai	Korean	O.A	White	Others	Total
P1: 2013/14	18	194	147	481	246	16	18	7	16	118	94	1355
2014/15	21	216	143 ¹	521	299	26	23	11	42	109	58	1469
P2: 2013/14	12	211	163	515	220	19	20	5	3	98	86	1352
2014/15	22	208	154	506	253	14	20	9	53	118	69	1426
P3: 2013/14	17	211	168	490	206	12	25	5	10	62	88	1294
2014/15	12	224	159	522	222	18	19	4	23	90	62	1355
P4: 2013/14	10	194	138	457	250	9	22	4	6	55	83	1228
2014/15	18	210	171	505	204	12	27	5	34	65	59	1310
P5: 2013/14	13	228	155	498	212	7	29	2	3	53	78	1278
2014/15	10	199	139	469	249	7	22	6	29	55	61	1246
P6: 2013/14	6	237	191	480	212	6	27	2	4	42	47	1254
2014/15	15	228	157	506	207	6	32	2	20	55	54	1282
S1: 2013/14	11	238	185	506	194	12	14	8	18	29	106	1321
2014/15	12	266	220	559	249	10	21	12	46	42	70	1507
S2: 2013/14	3	253	236	494	239	12	29	6	6	25	83	1386
2014/15	11	248	187	474	194	12	17	8	35	33	78	1297
S3: 2013/14	8	247	202	469	232	10	9	8	7	24	74	1290
2014/15	6	254	232	505	229	10	34	8	25	32	75	1410
S4: 2013/14	5	258	206	416	208	15	17	10	3	30	82	1250
2014/15	9	241	200	448	240	13	11	7	24	31	55	1279
S5: 2013/14	6	210	181	272	169	11	14	10	8	21	56	958
2014/15	3	242	192	382	201	11	11	13	31	27	40	1153
S6: 2013/14	5	159	137	237	132	10	4	3	6	9	46	748
2014/15	6	197	165	239	156	10	13	9	20	15	36	866
S7²: 2013/14 2014/15	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

¹ Red indicates drop of number of students from previous year.

² Data not available after 2011/12 due to change of education curriculum (with the new introduction of 334 progression).

A3. Secondary Level

The case is similar concerning official information about secondary school profiles and allocation.¹⁸ At the secondary level, ethnic minority students have lower school attendance rates and higher dropout rates compared to the population of Hong Kong students. In particular, Pakistani students are two and half times more likely whilst Nepalese students are more than three times as likely as Chinese students to leave school before Form 5.

Table 3.7 School Attendance Rate of Ethnic Minorities and the Whole Population at Secondary Level in 2006 and 2011

		School Attendance Rate of Ethnic Minorities	School Attendance Rate of the Whole Population
		2011	2011
Secondary Education	12-16	98.2%	98.6%
	17-18	76.2%	86.0%

*Source: 2011 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 5.1*¹⁹

Table 3.8 Pre-Form 5 Drop Out Rates Among Youths Aged 13-19 by Ethnicity in Hong Kong in 2011

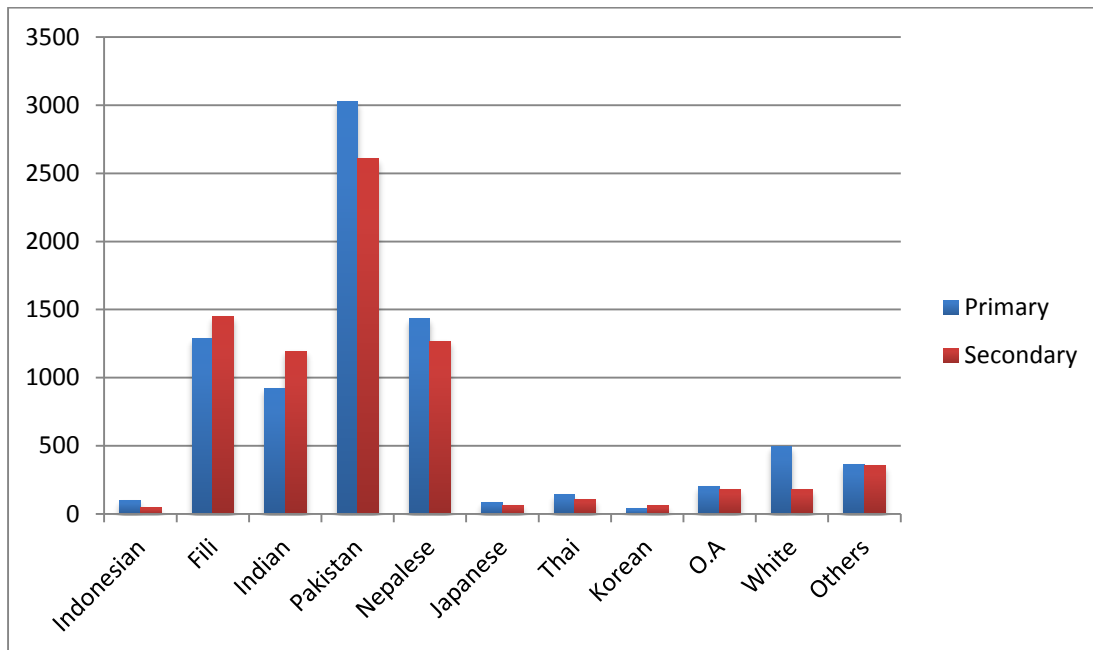
Leave School before Form 5 Among Youth Aged 13-19	
Ethnicity	% of dropouts
Chinese	6.4
Mixed (Chinese and other Asian)	9.6
Pakistani	15.6
Nepalese	20.6

*Source: The Hong Kong Institute of Education*²⁰

These figures are further affirmed for the Pakistani children whose student population seems to have nearly halved in the transition from Secondary 4 to Secondary 5, with the attrition of around 150 students in the 2013-2014 academic year and a further reduction of nearly 150 students from Secondary 5 to Secondary 6 in the 2014-2015 academic year; and the Nepalese children who saw a drop of 40 students from 2013-2014 and 2014-2015 from Secondary 5 to 6. Overall, the Pakistani student population halved and the Nepalese population dropped by nearly 100 students when comparing Secondary 1 school entry rates to Secondary 6 graduation rates in the 2014-2015 academic year.²¹

In general, it is also worth noting trends pertaining to the total number of primary and secondary school students by ethnic groups. As the population figures highlight, with the Pakistani, Nepalese and Filipino communities being the largest groups under the age of 15 years, these figures suitably show that the present distribution of current school going ethnic minorities is in accordance with those population trends.

Graph 3.1 Total Number of Students in Primary and Secondary School by Ethnicity in Hong Kong in the 2014-2015 Academic Year



Source: Director of Bureau, Secretary for Education, Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2015-16, Session 13

A4. Post-Secondary Level Education

The pattern of lower school attendance rates for ethnic minorities continues at the post-secondary level. Among those aged 17-24, a smaller proportion of ethnic minorities are receiving post-secondary education when compared to the population as a whole.²² The distinction appears to be significantly pronounced for Indonesian, Pakistani, Nepalese and Thai communities. These results are consistent across several independent statistical studies.

Table 3.9 below shows the percentage of the population aged 17-24 receiving education in Hong Kong.

Table 3.9 Percentage of the Population Between the Ages of 17 to 24 Receiving Education in Hong Kong

Age Group	Ethnic Minorities (Excluding Foreign Domestic Helpers) Receiving Education (%)			Total Population Receiving Education (%)		
	2001	2006	2011	2001	2006	2011
17-18	65.9	79.7	76.2	71.2	82.9	86.0
19-24	13.4	30.4	32.8	28.0	39.3	45.1

Source: HKCSS Ethnic Minorities in Hong Kong 2013²³

The difference is of around 10% in the 17-18 age group whereas there is a 12.2% difference for the age group 19-24 year olds, highlighting that the prospects for higher education among ethnic minorities decrease as they age.

Table 3.10 below shows the percentage of people who have received at least post-secondary education, broken down by ethnicity.

Table 3.10 Percentage of Population that has Received at Least Post-Secondary Education, Disaggregated by Ethnicity

Ethnicity	Percentage of people from within specific ethnic groups who received at least post-secondary level education	
	Incl. foreign domestic helpers	Excl. foreign domestic helpers
Japanese	79.4%	79.4%
Korean	75.8%	75.1%
White	73.9%	73.9%
Indian	52.5%	57.3%
Other Asian	46.3%	51.4%
Filipino	29.7%	54.2%
Chinese	23.9%	23.9%
Pakistani	17.1%	17.0%
Nepalese	16.1%	16.4%
Thai	10.8%	13.1%
Indonesian	7.0%	26.1%
Whole Population of Hong Kong	27.3%	27.7%

Source: 2011 Population Census Thematic Report: Ethnic Minorities, Table 5.2 for data including foreign domestic helpers; adjusted data excluding foreign domestic helpers published by the Hong Kong Council of Social Service²⁴

Table 3.11 below shows the percentage of youths studying at or who have graduated from university, by ethnicity.

Table 3.11 Percentage of Youths Aged 19-22 Studying or Completed University Education by Ethnicity in Hong Kong in 2011

University Education Among Youth Aged 19-22	
Ethnicity	Studying or Completed University Education (%)
Pakistani	4.3
Nepalese	7.7
Mixed (Chinese and other Asian)	22.1
Chinese	28.6

Source: Hong Kong Institute of Education²⁵

The discrepancy between the level of education received by ethnic minority youths and Hong Kong Chinese youths is supported by anecdotal evidence. One area well-documented by local NGOs concerns the rate of admission to degree courses at local universities. According to Fermi Wong, founder of Hong Kong Unison, only 1% of ethnic minority students are admitted into universities via the Joint University Programmes Admissions System (“JUPAS”) each year, while among Hong Kong Chinese students, rates of admission amount to more than 20%.²⁶ It should be noted that JUPAS does not keep a formal record of the ethnicity of students who apply to it, which makes data gathering and research in this field very difficult. Without relevant data, effective policies informed

by evidence and trends to target particular groups' to fulfil their right of equal access to educational opportunities at all levels cannot be delivered. This explains one reason behind the failure of the education system to adequately cater to ethnic minority students' needs. Policy making is not currently evidence-based.

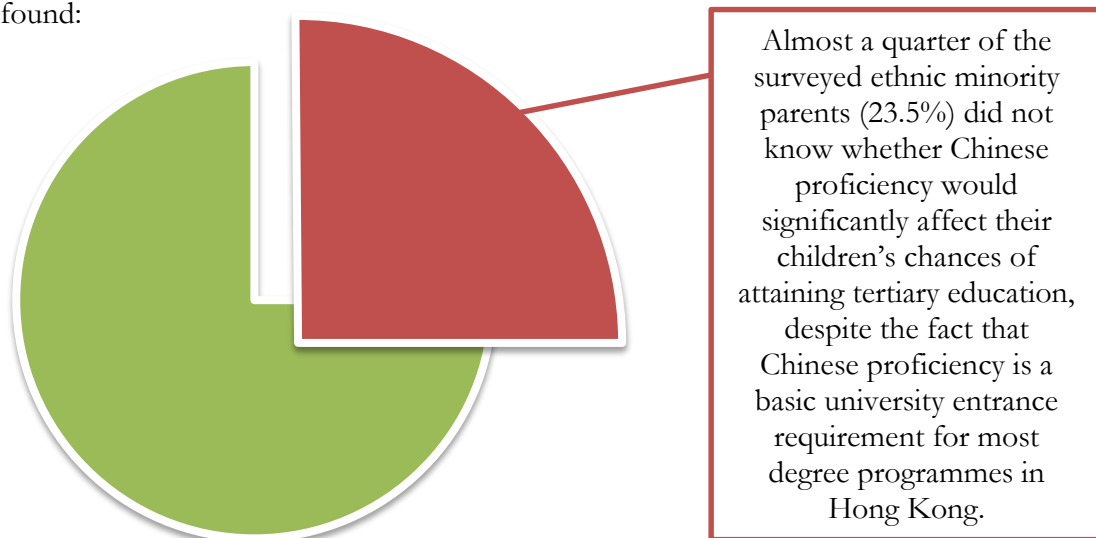
In 2013, it was reported that only 120 ethnic minority students were admitted to degree courses.²⁷ The rest could only resort to vocational training programmes, associate degree or other support programmes to receive further education. However, only 4 out of 160 vocational programmes provided by the Hong Kong Institute of Vocational Education are conducted in English.²⁸ Some of these courses, however, have certain compulsory Chinese courses. Other options, such as training courses run by the Vocational Training Council and the Employee Retraining Board are nearly all in Chinese. Project *Yi-jin*, a programme designed to help those who have not done well in school, is only available in Chinese. Ethnic minority students are therefore left with very few options once they fail to meet the minimum requirement for university (which, in many instances, is due to their being unable to meet the required grade in Chinese).²⁹

A5. Access to Information on Education

Oftentimes, barriers to accessing information about the education system in Hong Kong compound the challenges with respect to access to education itself. Without accurate and up-to-date information in a language they can understand, ethnic minority parents are poorly placed to make well-informed choices about the education of their children. Put differently, ethnic minorities may require assistance and support in accessing and processing relevant information to benefit from education opportunities equally. In some instances, this may be because ethnic minority parents will not have grown up in Hong Kong or experienced the education system here themselves, whilst, even for those who have been educated here, much has changed since the handover in terms of the education policy.

Therefore, clarity and equality of access to information about the education system is just as important as the delivery of the educational program itself.

In a 2010 Report on Parents Involvement for Children's Educational Advancement (the "HKCSS Parental Involvement Report 2010"), the Hong Kong Council for Social Service surveyed both ethnic minority and Chinese parents of primary schoolchildren and found:

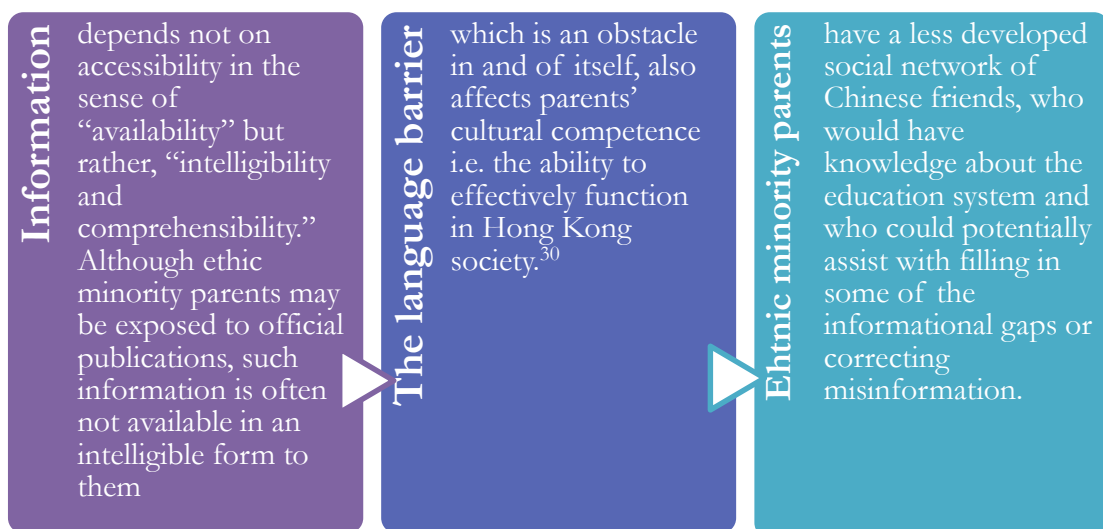


Ethnic minority parents...

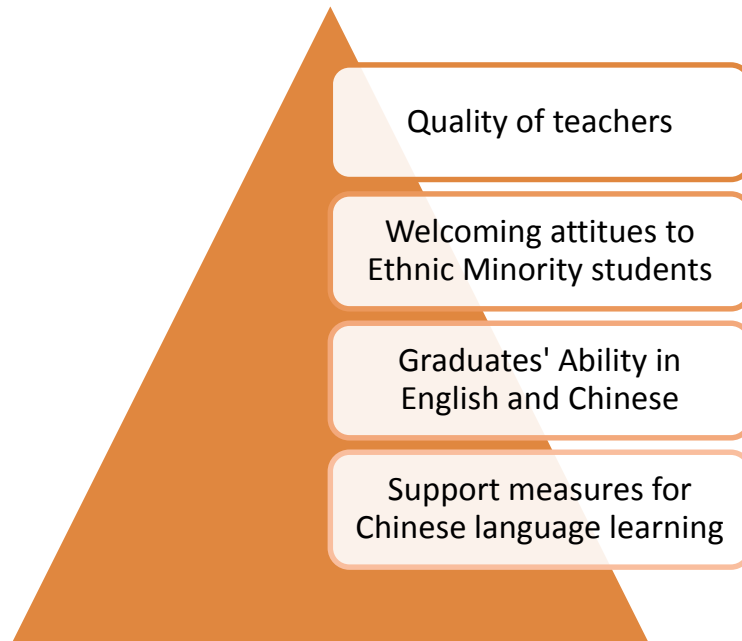
- had serious knowledge deficits about the overall structure of the Hong Kong education system. Approximately one third of the surveyed parents were unaware of the Direct Subsidy Scheme; two thirds did not know about the shift to the 3-3-4 system in 2009; and about half of them were unaware of the banding system and its significance.
- were much more likely than Chinese parents to believe that designated schools will be educationally beneficial to their children. This is in contrast to the findings of recent research on education of different groups (discussed below).
- express themselves to be confident about their knowledge of a particular stage of the Hong Kong education system *only after their children have experienced it* – the surveyed parents, most of whose children were in primary school, described themselves as knowledgeable about the kindergarten and primary school systems.
- Their self-reported knowledge scores regarding secondary and tertiary level education fell dramatically as the stage of education for the child progressed (they scored approximately 3.6 on a scale of 1 to 5 for pre-primary and primary education compared with 2.5 for secondary education and 1.54 for tertiary education).

Worse still, **ethnic minority parents often regard themselves as having the same level of information accessibility** and adequacy of knowledge as Chinese parents. That they are unaware of the extent of their knowledge gap in this area is equally, if not, **even more worrying**.

The HKCSS Parental Involvement Report 2010 presents the following observations on the underlying reasons for this:³⁰



Hong Kong Unison's June 2015 study on Ethnic Minority Parental Choice in Primary School Selection (the "Unison Parental Choice Survey 2015")³¹ also examined this issue of access to information about the Hong Kong education system and its opportunities for admission. The study found that ethnic minority parents who chose "racially segregated" schools (i.e. those with a large proportion of ethnic minority students) for their children were most concerned with four factors in the school experience, in the following order of importance / relevance:



However, the study also found that these parents were *most* dissatisfied with the actual experiences of their children in these four areas of priority. The study concluded that this mismatch between expectations and outcomes suggests that in reality, ethnic minority parents lack the relevant information to be able to make informed choices for their children's education. If this is correct, this also means that parents are generally disappointed with the entire education experience of their children at these schools, not only for Chinese language but in terms of their children's ability to pick up English to a desired level of competence and they express dissatisfaction with the quality of teachers at these schools.

A6. Access to Education for Special Education Needs (SEN) Students³²

The situation of EM SEN students is even more dire. Not only do they have to contend with the general difficulties outlined above, there is a critical shortage of school places and resources to cater to the special learning needs of EM SEN students across primary and secondary school sectors, in particular access to English Medium of Instruction ("EMI") schools. Placing EM SEN students in a Chinese learning environment can further delay their ability to communicate, compromise their development and result in a poor educational outcomes.

Although a learning support grant of between HK\$1 to HK\$1.5 million per school per annum has been put into place for primary and secondary schools in the public sector to support SEN students' needs since the 2013/14 school year, the Education Bureau recommends that non-Chinese speaking students select from only 10³³ schools offering

EMI out of 453 government and aided primary schools³⁴ overall. Most EM SEN students stand a very slim chance of admission in to these EMI. Moreover, none of the government or aided special schools, catering only to students with special needs, offer EMI. Therefore, EMI SEN students often have to settle for a Chinese medium of instruction (“CMI”) government or aided school. However, as the comparatively high dropout rate of such students illustrates, this environment is not conducive to advancing development and learning among EM SEN students and indeed, can contribute to developmental delays as the window of opportunity for learning in an appropriate environment for the most effective developmental results narrows.

International literature has consistently underscored the importance of a strong foundation and early start for SEN students to facilitate their learning progress as they transition through their developmental milestones. International experts on child development identify the ages between three and seven years as the critical window within which to target age-appropriate developmental milestones. Once this window is missed, children are delayed substantially in terms of developmental progress. Any such delays have particularly serious implications for children with special needs. The failure to engage children within these critical developmental stages is tantamount to setting them up to fail in the long-run, impacting their quality of life in the future and more crucially, their ability to realise and enjoy the remainder of their human rights on an equal basis with others similarly placed to them but without the special needs. Thus, long waits for an EMI place at a school equipped to teach SEN children is an issue of utmost urgency to ensure equitable outcomes in terms of all children’s right to education.

In the private sector, for children with moderate to high SEN needs, the wait is anywhere between one and more than five years to enter schools offering SEN places. This applies even at the most expensive schools which cost up to HK\$420,000 a year.

At the secondary school level, Direct Subsidy Schools and schools in the public sector appear to be more accommodating of EM SEN students in providing an EMI environment. On the other hand, among the international schools, there are fewer places for SEN students in the secondary school level than in the primary. Where such places are available, they tend to be reserved for students with mild disabilities.

As a result of the lack of English medium places in both the public and the private sector, the lengthy waiting time and the prohibitive costs of the private sector, many EM SEN students have no choice but to attend CMI schools which they seldom benefit from. This is particularly true for students with speech and language impairment. Placing them in a CMI school invariably sets them even further behind than they would be if suitably placed in an EMI school catering to SEN students.

This reality is evidenced by the 57% drop out rate among EM SEN students in public sector mainstream schools (as opposed to special schools) in the 2013-14 school year, disproportionately higher than the 5% drop out rate for all SEN students.³⁵ This reflects that EM SEN students are finding it challenging to transition from primary to secondary schools in the public sector. Moreover, 42% of EM SEN students in public schools are in special schools in 2013-14³⁶, a very high proportion compared to 19% for overall SEN students³⁷, further suggesting that EM SEN student needs are not being met in public mainstream schools.

Among SEN students who have speech and language impairments, the drop off rate is at a critical highpoint at 89%. This suggests that language is a significant factor for SEN students that impacts their ability to make academic progress and has serious

implications for EM SEN students given the lack of availability of EMI school places for them across both, the public and the private education sectors. These students are even less likely to go on to pursue higher education.

At Watchdog, an early intervention programme funded by the Social Welfare Department, 95% of its English-medium SEN students have speech and language delay. This highlights the challenge they face in communicating even in the language they are most familiar with. Requiring this group of children and those similarly situated to be placed in a CMI environment places EM SEN children at a serious disadvantage, severely diminishing their opportunities for development and resulting in poor educational outcomes. To say that the availability of places for SEN students in general and their accessibility to and suitability for EM SEN students fulfills the government's responsibility to provide equal access to quality education for all children, in light of the facts above, reflects a poor understanding of the rights of each child to education, regardless of their ethnicity, disability, origin and any other markers of difference from the norm.

A striking example of the rigidity of the system and its unabated harshness came to light in the case of the child prodigy Arjun Singh. Arjun was a gifted child who excelled at school. However, the teachers at his school were unable to keep up with him and he decided to withdraw. The difficulty they encountered was that they had no curriculum they could draw on to teach a gifted child in English. He tried to gain admission to advanced classes in other schools, all of whom refused. His mother, also a teacher, decided to homeschool him. The Education Bureau was unable to find him a school for two years and the then Chairman of the Equal Opportunities Commission was of the view that the mother should not have withdrawn him from school in the first place. He said there are many schools that can provide good education for him in English, if the parents could afford it. In the end, he was accepted to King's College in London for his studies and plans to do a PhD in physics, as none of the higher education institutions in Hong Kong were able to accept him due to his age.

The saga is a sad depiction of the situation. The lack of an English language curriculum for gifted children suggests that Hong Kong's public school system fails to envisage the possibility that a gifted child who is a non-Chinese speaking or ethnic minority. That our universities would miss the opportunity to include gifted child prodigies due to concerns of age also speaks volumes as to our preparedness to push boundaries, cultivate talent and to exercise discretion when circumstances can prove beneficial for society as a whole. Instead, the gifted children of Hong Kong end up in overseas universities pursuing their life dreams and contributing to and enriching their learning environments.

B. DISCRIMINATION

While Hong Kong professes commitment to equality of opportunities, discrimination regularly occurs in ethnic minority students' experiences of the education system in a range of contexts, including, as noted above, access to information to experiences in terms of admissions opportunities and learning support. In particular, the discrimination is most acutely evident in the remnants of the now disbanded 'designated schools' policy (discussed below) which mandated the segregation of ethnic minority students from Hong

Kong Chinese students in the public schools system. Schools with high concentrations of ethnic minority students continue despite the recent abandonment of the policy which set them up in the first place, constituting a form of *de facto* racial segregation. Discrimination towards ethnic minority students is unfortunately also rife in the perceptions of key stakeholders in the education system.

In the 2014/15 academic school year, 43% of all Hong Kong kindergartens did not have any ethnic minority students enrolled in them. Moreover, 5% of the kindergartens reportedly did not have any Chinese students in them.³⁸

In response to charges of *de facto* or indirect discrimination, the Government often states that the segregation is the result of the exercise of parental choice in the placement of their children in Hong Kong schools – they choose to send their children to these schools due to convenience, comfort of familiarity of friends and the environment or for other personal reasons. However, as the research findings detailed in the HKCSS Parental Involvement Report 2010 and Unison's Parental Choice Survey Results 2015 discussed in Section A5 above show, this is not an accurate characterization of the 'choice' exercised by parents or a fitting description of the causes of segregation.

B1. The Prevalence of de facto Segregation

At the kindergarten level, *de facto* segregation is caused primarily by language factors, as identified by the Unison Kindergarten Support Report 2015. The kindergartens' language policy contributed to such segregation.

The study's key findings are summarized as follows:

- 62% of the kindergartens used Cantonese exclusively as the interview language. This effectively makes the Chinese language an admissions criteria since those children who cannot communicate in Chinese would be put at an immediate disadvantage in terms of their performance at the interview, where the instructor would use Chinese to determine the quality or suitability of the child for admission to their kindergarten.
- Of the 62%, less than half (45%) said they were willing to modify their regulations. However, despite the availability of this option, none of the 45% of kindergartens disclosed this information in their admissions guidelines nor did they volunteer this information until they were specifically asked. Without such information available in the public domain, ethnic minority parents would have no reason to consider these 45% of kindergartens as ones they could potentially approach.
- Only 10% of the surveyed kindergartens provided applicants with a choice for interviews to be conducted in Cantonese or English.
- 71% of the kindergartens in the survey sample participating in the Pre-primary Education Voucher Scheme only use Cantonese for their admission interviews whilst a mere 7% would offer bilingual entrance interviews.
- Much of the official material provided by the Education Bureau for parents is available only in Chinese. For example, the Quality Review Reports of individual kindergartens are only made available in Chinese.³⁹

- Likewise, information regarding school curriculum, pedagogy and learning assessments and tools of kindergartens in a document entitled ‘Profile of Kindergartens and Kindergarten-cum-Child Care Centres’ is available only in Chinese with respect to some of the kindergartens included in the guide.

Thus, language poses the biggest barrier to equal access to pre-primary education and not only facilitates but perpetuates racial segregation in the education sector. To assist families paying for private kindergarten tuition, the government has launched a Pre-Primary Education Voucher Scheme (PEVS) which kindergartens can opt to join, and which is heavily relied upon by ethnic minority families to fund kindergarten education. This language-induced segregation is made worse by the finding that kindergartens that are more financially accessible to ethnic minority parents were *less* likely to accommodate their language needs in the admissions process. Kindergarten education is not mandatory in Hong Kong, and so there are no publicly-funded kindergartens.

The net effect of these policies is that those in greatest need of government-subsidised resources to access pre-primary education are most likely to be shut out by the language barrier in accessing the majority of kindergartens signed onto the PEVS.

Turning to primary and secondary education, before 2004, the choice of schools for ethnic minority students was very limited: among 1,200 mainstream schools, only 7 primary schools and 3 secondary schools were willing to accept ethnic minority students,⁴⁰ and there were only 2 primary schools and 2 secondary schools in the public sector providing a non-Chinese curriculum, allowing students to learn English and exempting them from learning Chinese.⁴¹

The Primary One Admission (POA) system was reformed in 2004, allowing ethnic minority students to study in mainstream schools and to learn Chinese more comprehensively. Despite this change, however, the lack of support in local schools to make learning in the Chinese language or in the subject of Chinese itself more accessible to ethnic minority students meant that this policy was far from effective in allowing a free, meaningful or informed choice to parents and students on their preferred school. As a result of ‘choosing’ not to enroll at mainstream schools to prevent their confidence and future from being undermined, ethnic minority children continued to be isolated from mainstream education.

Indeed, ethnic minority students were actively discouraged from applying to or entering mainstream schools, either by the Education Bureau by way of informational material prepared for parents of ethnic minority children, which would invariably list out the “designated schools” (defined below) as the most suitable schools for them, or by the teachers at mainstream schools, who would dissuade parents from sending their children there by emphasizing how difficult it would be for them to keep up with the Chinese language curriculum. As a result, most ethnic minority students opted to study in the “designated schools,” which invariably had a higher proportion of ethnic minority students.

“Designated schools” officially came into existence in the school year 2006-2007 under the initiative of the Education Bureau. Under this policy, 10 primary schools and 5 secondary schools were designated to enhance learning and teaching for non-Chinese speaking students, particularly in the Chinese Language through intensive on-site support to these schools. Each “designated school” was provided with a special grant at a rate of \$0.3 Million per annum for a period of two school years to arrange programmes to support

the learning and teaching of their non-Chinese speaking students.⁴² In the school year 2012-2013, the number of such “designated schools” was increased to 31 (21 primary and 10 secondary schools with school-based support programmes specifically arranged for non-Chinese speaking (NCS) students).⁴³

The Education Bureau claims that the objective providing focused support to the “designated schools” is to:⁴⁴

“[...] facilitate schools’ accumulation of experiences and development of expertise in the learning and teaching of non-Chinese speaking students so that these schools may serve as the anchor point for sharing experiences with other schools which have also admitted non-Chinese speaking students through a support network formed for all NCS students in the local schools to benefit from the arrangement.”

It is highly doubtful whether this objective has been achieved at all. Instead of helping ethnic minority students integrate into society by facilitating their pursuit of education in the mainstream schools, the introduction of “designated schools” created an even bigger gap between Hong Kong Chinese students and ethnic minority students. Whilst the Education Bureau claims that the resulting segregation of ethnic minority students is a result of parental choice, the situation is more aptly depicted as a “forced decision” that is based on the lack of meaningful choices or for want of a better alternative.⁴⁵ Due to the lack of support and training for teachers to address the learning needs of ethnic minority students in mainstream schools, parents bear the burden of deciding whether to let their children fail in the mainstream schools or to enroll them in “designated schools” where they ultimately graduate with an average of primary 2 level Chinese skills.⁴⁶

The system of “designated schools” has long been criticized as a form of racial segregation contrary to ICERD and the RDO.⁴⁷

“The continued maintenance of racially segregated schooling is a direct violation of the best interest of the child principle and the lack of a Chinese as a Second Language curriculum grossly undermines the chances of ethnic minority children accessing university and employment opportunities, embedding many of them in a cycle of intergenerational poverty.”⁴⁸

It is not difficult to see that this system of segregation is harmful on two levels. First, from the perspective of ethnic minority students, it decreases the prospects for effective learning of the Chinese language since it limits, if not completely obliterates, any opportunities for ethnic minority students to practice Chinese with their peers. Second, for society as a whole, it reinforces barriers between groups and divides communities along racial lines and increases people’s ignorance of one another.⁴⁹ As Fermi Wong, founder and former Executive Director of Hong Kong Unison explains, “[Minority students] have been living and studying in a very narrow social circle and have become disconnected with the mainstream society. [This harms] social integration.”

Given the importance of the formative years of development in forming an understanding of different people and building friendships, the lack of diversity in

mainstream schools only serves to perpetuate ignorance and stereotypes among local students as to the background, culture and values of people of different ethnicity. This also robs children of a crucial opportunity to form appropriate impressions of this community and their rootedness and belonging to Hong Kong society as citizens worthy of equal respect and rights.

On 16 October 2013, in response to the Human Rights Committee's and the Committee on the Rights of the Child's criticisms of the current system and its alleged violation of international and local legislation, the Education Bureau decided to remove the label "designated schools" although the schools themselves remain with their original admissions and composition policies still intact. Instead, as a fix, the Education Bureau proposed that starting from the school year 2013-2104, it would provide subsidies not only to the "designated schools" but to all public sector schools and Direct Subsidy Scheme schools admitting 10 or more non-Chinese speaking students with a view to helping them master the Chinese Language in a progressive manner and obtain different Chinese qualifications.⁵⁰ Under the new funding policy, qualifying schools will receive HK\$300,000 to HK\$600,000 according to the number of ethnic minority students admitted.

However, merely changing the funding model for schools with a certain number of ethnic minority students does not address in substance the problems of the system, one of which is the high concentration of ethnic minority students in former "designated schools". For example, in at least 22 public schools, more than half of the students were ethnic minority students; and in at least 8 of them, the concentration of ethnic minority students was over 90%.⁵¹ This racially segregated schooling system fails ethnic minority students by limiting their opportunities to be exposed to and immersed in an environment which is conducive to learning Chinese and to afford them opportunities to learn together with local students. Moreover, since "designated schools" are left to develop their own curricula, the standards across schools tend to vary greatly.

Dr. York Chow, Chairperson of the EOC, describes the new funding policy as a "stop-gap" measure, commenting that⁵²:

"Rather than creating separate schools, what is solely needed is comprehensive and systemic support at mainstream schools for ethnic minority students to learn effectively alongside their local Chinese peers."

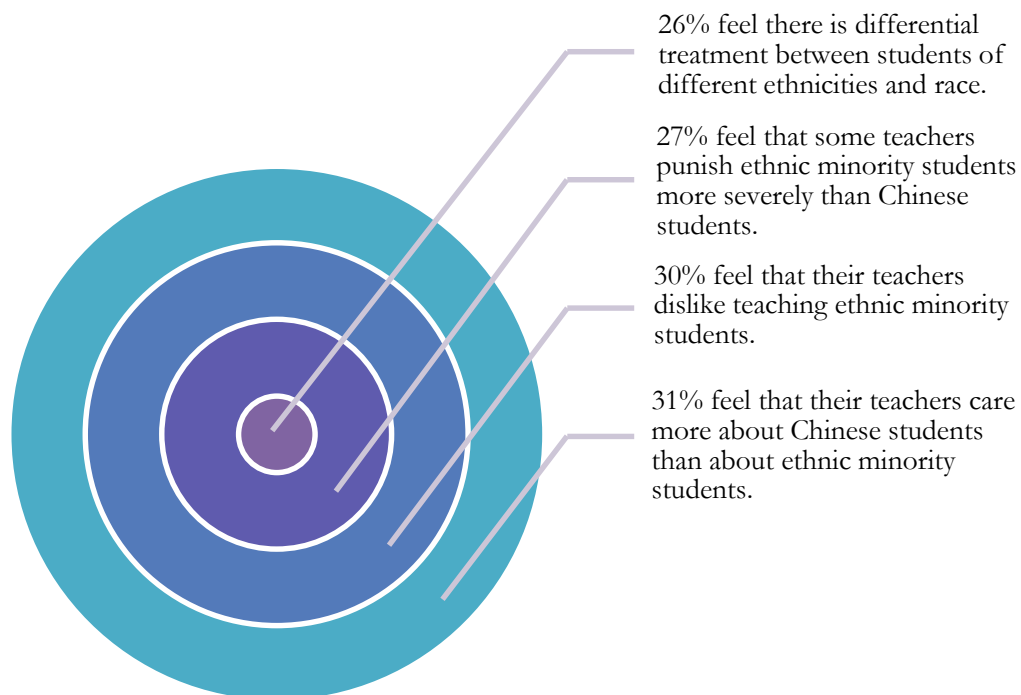
Dr. Tse Wing-ling of the EOC has likewise reiterated that the new funding policy does not address the core of the issue which boils down to implementing a suitable curriculum for ethnic minority students that makes Chinese language learning accessible to them. She explains that even if the funding policy encourages mainstream schools to admit more ethnic minority students, the problem faced by ethnic minorities students in terms of accessibility to the Chinese language curriculum will not be resolved if teachers do not know how to teach these students.⁵³ Thus, changes need to be made in terms of substantive and structural issues that contribute to the failings inherent in the system. Merely allocating funds does not serve any purpose without concrete development of teaching and learning material, institutional programmes of training for teachers and support staff and improvement in the diversity of the school environment. These specific improvements will facilitate meaningful change with a positive impact on the likelihood of enhancing the Chinese language skills of ethnic minority children.

B2. School and Parental Attitudes towards Ethnic Minority Students

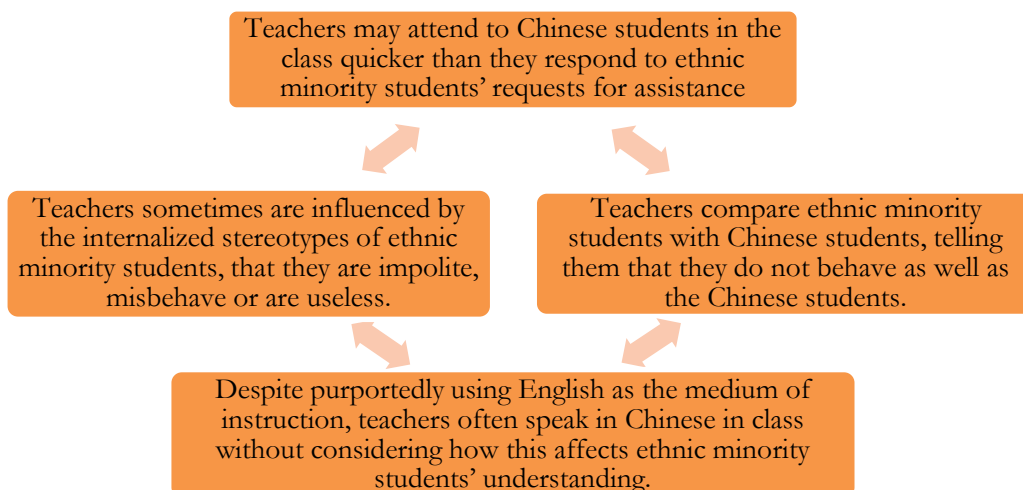
A second source of the discrimination experienced by ethnic minorities in their education experience stems from how they are viewed by schools and other parents. Often, such views are stereotypical and unflattering. We first review the literature establishing such negative stereotypes.

Negative Stereotypes and Attitudes

In Ku, Chan and Sandhu's 2005 paper "A Research Report on the Education of South Asian Ethnic Minority Groups in Hong Kong", ethnic minority students between Forms 4 and 7 were asked to complete questionnaires on, amongst other topics, their perceptions of their teachers' attitudes towards them. Among the most pertinent findings are:



Several students, in follow-up interviews, also provided the following anecdotal experiences of adverse attitudes from their teachers:



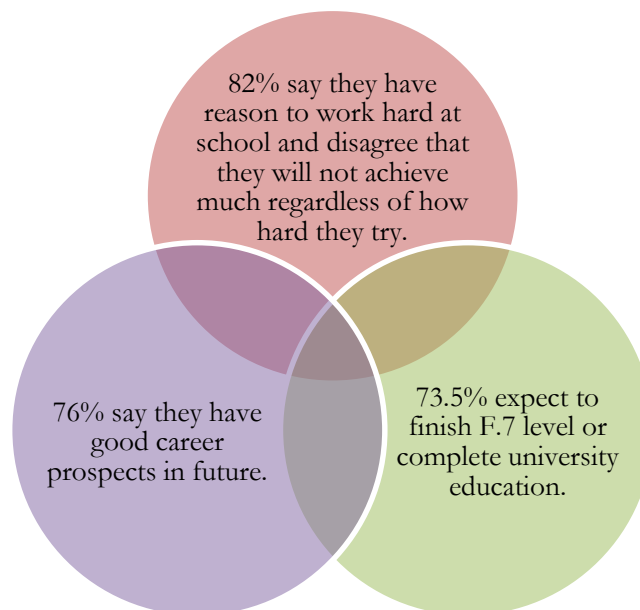
In Hue and Kennedy's 2012 article entitled "Creation of Culturally Responsive Classrooms: Teachers' Conceptualization of a New Rationale for Cultural Responsiveness and Management of Diversity in Hong Kong Secondary Schools", a sample of HK teachers expressed their views towards ethnic minority students during interviews.

These teachers expressed concerns about the low motivation levels of ethnic minority students, in particular with respect to learning the Chinese language. Further, they found that ethnic minority parents had different expectations of their own role as parents in relation to their children's education, noting that Pakistani and Indian parents saw their role as merely to "comply with the law" by sending their children to school, not to improve their child's behaviour in the classroom or their learning habits at home. The teachers did note, however, that one main cause for the parents' inaction was their inability to meaningfully participate in their children's education as a result of their own low education levels.

Stereotypes Debunked

However, specific research into the learning culture and attitudes of ethnic minority families provide evidence that the aforementioned stereotypes held by teachers are baseless and do not bear out as research findings reveal.

Ku, Chan and Sandhu's 2005 paper made observations on the academic aspirations and work ethic of ethnic minority students. The results show that ethnic minority students have high hopes for themselves:



These findings are hardly consistent with the notion that ethnic minority students are lacking in motivation and lazy in general.

Another relevant study is the HKCSS Parental Involvement Report 2010, which looked into the "widely held belief" that ethnic minority parents' lack of knowledge and information is primarily due to their lax attitudes towards their children's educational advancement. This study concluded that the stereotype is not supported by the data.

The study first found that there was no statistically significant difference between the time spent by ethnic minority parents and that spent by Chinese parents in helping

their children do homework every day. While more Chinese parents (88.9%) than ethnic minority parents (74.6%) said they helped their children do homework, more ethnic minority parents said they did so every day (55%) than Chinese parents (42.1%).

Second, the study found that ethnic minority and Chinese parents were involved in school activities to a similar degree, although ethnic minority parents were more actively involved in pre-arranged and highly-regulated activities such as attending parent-teacher meetings while Chinese parents were more likely to engage in proactive school activities such as volunteering.

Third, the study found that while ethnic minority parents were less confident than Chinese parents that their children would attain tertiary education, they actually had more frequent discussions with their children concerning their post-high school plans than Chinese parents.

In conclusion, the HKCSS Parental Involvement Report 2010 suggested that its findings debunked the myth of the uninterested and uninvolved ethnic minority parent. In fact, it found “the Chinese parents and the EM parents have similar level of expectation. In some ways, the latter show more concern and has more involvement”. Any difference in knowledge was due largely to the gap in cultural knowledge between these two groups of parents.

A third study – a Hong Kong Christian Service survey conducted in 2011⁵⁴ among primary and secondary school students – showed the high academic aspirations of ethnic minority students. 52.6% of the respondents stated that entering university was their future goal. About 80% of both primary school and secondary schools students agreed that mastering good Chinese language skills was an important element to further education and career development. When asked if they were hopeful about career prospects, 36.1% of the respondents indicated that they were “highly hopeful”, whereas the majority (54.3%) was “moderately/ quite hopeful.” Again, such high academic aspirations and hopeful expectations for their future are inconsistent with the traditional stereotype of the unmotivated and disinterested ethnic minority student.

Finally, a 2012 article entitled “The No Loser Principle in Hong Kong Educational Reform” surveyed both Chinese and ethnic minority students regarding their attitudes to school work. The survey found that ethnic minority students have very positive attitudes to work and value hard work highly – across most questions they consistently scored higher than their Chinese classmates.

C. THE CHALLENGE OF BUILDING A MULTICULTURAL SCHOOL

Yet another challenge in policy making for and effective pedagogical approaches to ethnic minority education is the difficulties faced by local schools in creating multicultural school environments. These difficulties are found both in and out of the classroom – these span a range of issues, including classroom management methodologies, teacher training, accommodation for religious and cultural practices and parental communication.

C1. Lack of Defined Policy for Formative Years of Schooling

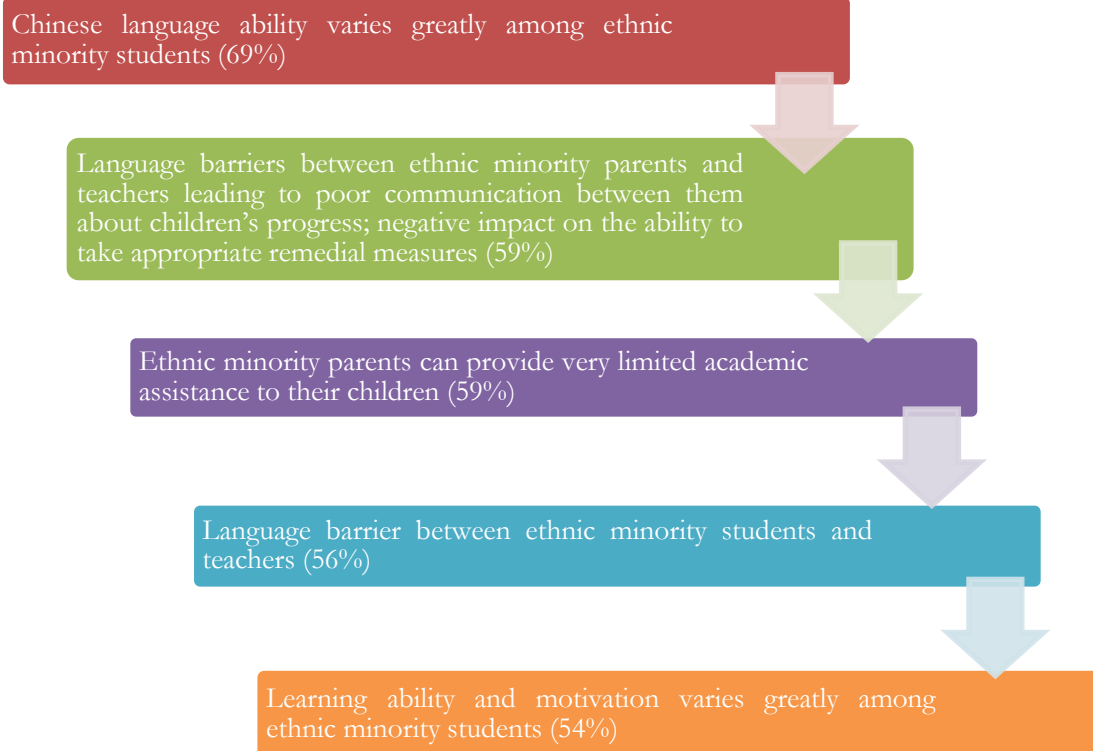
Recent studies have shown that for a solid foundation to be laid in any language, exposure to the language must begin in the formative years of life for children. In these early years, children are able to master two to three different languages simultaneously.⁵⁵ Research suggests that Chinese kindergarten education is crucial in preparing ethnic minority

students for schooling in CMI schools.⁵⁶ However, the EOC's report suggests that some ethnic minority students did not go to kindergarten at all and the body urged the HKSAR Government to consider implementing free and compulsory education from the kindergarten level.⁵⁷ Moreover, as the aforementioned research findings from Unison's Kindergarten Reports 2012 and 2015 show, gaining admission into kindergartens teaching in Chinese is next to impossible for ethnic minority children.

In the school year 2011-12, there were a total of 11,570 non-Chinese speaking students studying in 544 kindergartens. There was however no policy to create a structured system for ethnic minority students to learn Chinese from a young age⁵⁸, for example, to cater for ethnic minorities whose mother tongues are not Chinese.⁵⁹ As Hong Kong Unison, a local NGO dedicated to frontline and advocacy work on issues relating to ethnic minorities, particularly children, has observed, "the kindergarten curricula are not subject-based" and there is no effective monitoring of the Chinese language learning of ethnic minority children as they progress through the system. The poor foundation in Chinese language learning and its negative impact on the chances of ethnic minority children being able to pick up the language at primary and secondary levels present a further obstacle to parents' decisions to send their children to mainstream schools as opposed to what were referred to, until 2013, as "designated schools" (i.e. schools in which a higher proportion of ethnic minority students are admitted as compared to other local schools) or private international or English School Foundation (ESF) schools. These gaps only continue to widen as the children progress from kindergarten to primary school, and from primary school to secondary school.

C2. Insufficient Institutional Support From Government and Schools

The Unison Kindergarten Report 2012 also highlights the major difficulties faced by the surveyed kindergartens in teaching ethnic minority students, including the following:



Teachers have to teach bilingually using simple English (53%)

Teachers cannot provide the individual attention ethnic minority students require (50%)

Teachers are unable to assess whether ethnic minority students understand the teaching content and conversations (43%)

Teachers do not have concrete and effective teaching methods, and have to spend a lot of time on achieving their teaching objectives (34%)

Yet, the measures taken by these schools to counter these difficulties are very limited. Nearly half (41%) of the schools indicated that no supporting measures are in place to assist ethnic minority children – they simply receive the same support as Chinese students. Only 23% incorporate inclusive activities in teaching ethnic minority students and only 17% provide specially designed learning materials to ethnic minority students.

In terms of staffing, only 12% of the schools were found to employ ethnic minority staff as teachers / teaching assistants. Alarming, only 2% of the surveyed schools stated that their teachers received professional training in teaching ethnic minority students. One of the respondents stated that their staff received only one hour of Chinese-language teaching training. The majority of the surveyed kindergartens indicated that the support they received from the government was inadequate, thereby limiting the measures they could take to improve the situation.

Similarly, in Professor K.T. Hau's 2008 study on the adaptation process of ethnic minority students in government and aided CMI schools, he highlighted a number of factors affecting the effectiveness of ethnic minority students in learning the Chinese language in CMI schools:

- limited experience of the CMI schools in teaching ethnic minority students
- 77% of the ethnic minority students were in schools with less than 10 other ethnic minority students in the same school
- only 5% of the ethnic minority students used Cantonese at home
- less parental support: compared to the local Chinese students, parents of ethnic minority students were less educated: 41% fathers and 26% mothers of ethnic minority students had secondary education (versus 65% fathers and 60% mothers for Chinese students)

- ethnic minority students were very much weaker in Chinese and slightly weaker in Mathematics than their Chinese counterparts at the point of Primary 1 admission

Furthermore, in the HKCSS Policy Bulletin 2013, in the course of interviewing ethnic minority students and parents who had experience with government and aided schools, the authors pointed out that one (out of four) major problem that they encountered was the lack of resources and accountability at such school.⁶⁰

Before the new policy was implemented from the 2013-2014 school year, the lack of funding and support from government often meant that teachers could not adequately cater for ethnic minorities, whose background and Chinese language ability would vary greatly when compared to local students. Despite to the policy to allocate funding to schools with a certain proportion of ethnic minority students, the problem centred on the inability of the government to monitor the exact manner in which these funds were utilized. Some schools utilized the funding by employing teaching assistants who are ethnic minorities, while others did not even allocate the funds to programmes for ethnic minority students, instead diverting them to other activities and provisions. Either way, such unaccountability leads to ineffective and inefficient utilization of funds. As a consequence, teachers often fail to address the needs of ethnic minority students in a large class. Therefore, the matter is hardly an issue of budgetary commitment. Rather, it is a failure to conceive of and devise suitable policies that are targeted and a failure to conduct impact assessment of outcomes to fine tune an outcome-based approach to allocating resources for education.

C3. Teacher training for in-class diversity management

Another challenge in creating multicultural classrooms is that of equipping frontline teachers to deal with diversity in the classroom. At present, teacher training and refresher courses do not generally require teachers to be properly prepared to adapt teaching strategies and classroom management skills to students with diverse backgrounds.

At the outset, it is important to point out that such targeted training is necessary and that it is not prudent to assume that any qualified teacher can effectively operate in a multicultural classroom. This can be seen in the results of the 2008 HKIED study entitled “Comparing Hong Kong Teachers’ Sense of Efficacy for Teaching Chinese and Non-Chinese Students”. The study asked teachers to rate their efficacy in teaching Chinese and non-Chinese students. The results indicated statistically significant score differences across all but one item in the two categories of “Classroom Management” and “Instructional Strategies”, indicating that teachers were far more confident in teaching Chinese students. The study further found in follow-up interviews that this difference was due to differences in the learning behaviour of Chinese and non-Chinese students, and that “teachers generally find it hard to deal with such differences”.

Indeed, there is some considerable literature on the differences in learning styles between ethnic minority and Chinese students. It has been repeated in several studies that Chinese students tend to be “conceptual learners” who learn well without touching real objects or engaging in experiments, while ethnic minority students tend to be “experiential” or “non-conceptual learners”.⁶¹ Other studies suggest that ethnic minority students learn better in a group environment more so than Chinese students.⁶² As conceptual learners naturally benefit more from a teacher-centred learning experience such

as lecturing while experiential learners benefit more from student-centred experiential learning, it can be readily seen that a multicultural classroom calls for a balanced mixture of the two teaching styles. At the moment, teacher training does not adequately address this differential in learning styles and experiences.

Aside from the matter of teaching styles, diversity training is also needed to enable teachers to handle non-learning-related diversities which nonetheless require classroom management. For example, ethnic minority students often have different gender roles and conceptions, body language, ways of expressing themselves and religious/cultural customs from Chinese students.⁶³ One teacher related a story of how an ethnic minority student was *taught by his father* that he had to fight back whenever he was bullied by others.⁶⁴ Disciplining this student naturally requires a more nuanced approach than the usual “fighting is wrong” approach that the teacher used for Chinese students. There is also the need for awareness and understanding about the complex identities that many ethnic minority children have come to acquire.

The government itself has in fact recognized the need for this kind of diversity training. The Education Bureau had operated a pilot training program for kindergarten teachers teaching non-Chinese speakers. However, only 26 kindergartens joined the program in the 2013/2014 school year, and the program was slated to end by 2015.⁶⁵

The HKCSS Policy Bulletin 2013 provides an overview of the need to provide diversity training to teachers from students’ perspectives. The study found that teachers from government and aided schools have not received appropriate training on concepts such as diversity and inclusion, resulting in inappropriate treatment of ethnic minority students. For instance, some ethnic minority students have shared that their teachers show bias or favouritism towards Chinese students. The frequency of ethnic minority students receiving punishment is also reportedly much higher than that of local students. Even where the same mistake is committed, the penalties applied to ethnic minority students appear to be more severe. Students also point out that some teachers make negative remarks regarding ethnic minority students in front of the whole class, labeling them as “lazy” and “useless”, and say that “they will not have a career.”⁶⁶ Such statements feed and perpetuate negative stereotypes about ethnic minorities among local students, undermining the confidence of the children concerned and also hampering prospects for social integration by fueling feelings of inferiority among ethnic minority students.

The 2013 paper “Building a Connected Classroom: Teachers’ Narratives about Managing the Cultural Diversity of Ethnic Minority Students in Hong Kong Secondary Schools” approaches the issue of teacher training from the teachers’ own perspectives. It found that Hong Kong teachers generally adapted their teaching to the characteristics of their students by familiarizing themselves with the students’ abilities and backgrounds, but noted that teachers largely adopted teaching strategies depending on the class composition and student ability. In other words, there was *ad hoc* class-by-class adaptation. The study reported that teachers understood the drawbacks of this approach and suggested formal curricula modification and relevant teacher training to standardize the adaptations from class to class.

The study also reported the different attitudes that teachers have towards formative versus summative assessments (i.e. in-term assignments vs. end-of-term exams) – teachers felt that formative assessments could be tailor-made to class composition, but felt powerless to similarly modify summative assessments, especially if public examinations were involved. This may suggest the need for further curricula modification.

One possible way forward is highlighted in the 2013 paper “Creating Culturally Responsive Environments: Ethnic Minority Teachers’ Constructs of Cultural Diversity in Hong Kong Secondary Schools”. This paper explores the advantages that *ethnic minority teachers* have in managing multicultural classrooms, finding that ethnic minority teachers can use their own diverse cultural backgrounds and experiences of being an ethnic minority in Hong Kong to create empathy with ethnic minority students. In particular, their backgrounds enabled them to help ethnic minority students establish their sense of identity, e.g. by discussing how to handle everyday “minor acts of racism”. The paper also found that ethnic minority teachers were more willing to adjust existing teaching curricula to the needs of their students.

C4. Sensitivity towards Cultural and Religious Needs

Multiculturalism in the classrooms necessitates that teachers and schools display understanding of and sensitivity towards the religious and cultural needs of ethnic minorities.

Ku, Chan and Sandhu’s 2005 paper reports generally positive feedback from students about the extent to which religious and cultural practices are respected by schools, with substantial majorities (approximately 60%) reporting that their schools allow them to wear religious dress and symbols and grow beards. However, when probed deeper, the respondents’ views suggested that the school environment does not really foster inclusivity in matters of religious and cultural values and practice. In particular, there is anecdotal evidence of dietary, prayer and dressing needs not being met. It also found that statistically, 26.9% of the students who reported that it was “difficult” to make friends with local Chinese cited religion and culture as the reason.

The tendency of religious and cultural insensitivity is further evidenced in the findings of the study reported in the HKCSS Policy Bulletin 2013, which paints a less positive overall picture. The main findings of these two studies are presented below.

Both studies found that prayer needs remain unmet, especially for Muslim students who express the wish to be able to pray at school 5 times a day as required by their religion. The HKCSS Policy Bulletin 2013 notes that schools generally fail to arrange quiet venues for such prayer. Ku, Chan and Sandhu’s 2005 paper, meanwhile, finds that of the 42% of students who report that a quiet place is available, all but one of the Pakistani students in the sample come from the same school, which suggests that quiet prayer places are not available in other schools. Some schools did not respond to students’ petitions for prayer facilities.

Second, both studies found that schools often neglect the dietary needs of their students. The HKCSS Policy Bulletin 2013 found that Muslim ethnic minority students often do not get to order Halal food at school, resulting in extra expenses and inconvenience for parents who have to deliver food to their children. Ku, Chan and Sandhu’s 2005 paper found that only 8% of the surveyed students report the availability of Halal food at school, while Muslim and vegetarian students said that even if the food itself is something they can eat (e.g. potatoes), the method of preparing the food (usually with animal fats) makes it impossible for them to eat the prepared meals.

Third, both studies found that schools often display an overall lack of sensitivity to religion and culture. Both studies find instances of Muslim students being requested to sing Christmas carols and perform onstage for school Christmas events. The HKCSS Policy Bulletin 2013 further found that schools fail to take into account the fact that ethnic

minorities have different festivities from those celebrated in the Chinese tradition. Not only are the ethnic minority students forbidden from taking a holiday with their family during traditional festivals celebrated in their hometown, they are also not allowed to wear religious accessories on such occasions. Ku, Chan and Sandhu's paper also found instances of teachers misunderstanding religions by wrongly assuming that all adherents of a faith must endorse the same set of religious practices and putting pressure on students to conform to the mainstream practices.

Further religious and cultural differences were reported in the 2012 paper titled "Creation of Culturally Responsive Classrooms". Teachers reported religious devotion as one reason why ethnic minority students were distinct from Chinese students – in particular, Muslim and Sikh students had to attend classes on holy texts after school at the local mosques or temples, even if that meant neglecting their homework. Teachers also reported difficulties in helping ethnic minority parents understand why it was inappropriate to encourage their children's absence from school for celebrating religious or cultural festivals not in the school calendar.

One final aspect in which religion and culture can be better promoted in schools is the provision of education regarding the native religion and culture of ethnic minority students. Both Ku, Chan and Sandhu's 2005 paper and the 2013 paper "Building a Connected Classroom: Teachers' Narratives about Managing the Cultural Diversity of Ethnic Minority Students in Hong Kong Secondary Schools" report that ethnic minority students want their studies to include more references to and explanations on their cultural and religious backgrounds, for example to festivals related to their religious faith. Ku, Chan and Sandhu's paper also found a substantial minority of students (47%) were interested in learning their mother tongues as a separate subject at school.

C5. Parental Involvement Strategies

It should also be noted that this information dissemination process is crucial not only for parent-school information flows but also for parent-government information flows. This is to ensure that all parents have access to quality information when making decisions relating not just to their children's welfare within one school but also to decisions going beyond a single school, for example when deciding which school to apply for or whether to enroll in ethnic minority support classes offered by the government.

In this respect, the Hong Kong education system fails to provide such equal access to information. Ethnic minority parents are continually at a disadvantage when it comes to information access and opportunities for participation within the school system.

Regardless of their background, all parents need to be afforded equal opportunity to participate in school activities. This entails a system of information dissemination to all parents that takes into account the how parents of diverse backgrounds have different language abilities, educational levels, and favoured media channels.

The HKCSS Parental Involvement Report 2010 documented the existence of knowledge gaps between ethnic minority and Chinese parents (see section A4 above). In surveying the possible causes of these knowledge gaps, the study made several findings about how ethnic minority parents face barriers to active involvement in the education system. Aside from language difficulties, the study also documents the importance of social circles in the transmission of tacit knowledge (e.g. insider perspectives on the school environment) and finds that ethnic minority parents are disadvantaged compared to Chinese parents in this aspect as well. The study also finds a positive correlation between

the number of Hong Kong Chinese friends an ethnic minority parent has and his degree of knowledge.

Further, the study finds similar overall involvement rates between ethnic minority and Chinese parents in school activities but notes that the two groups of parents seem to be more heavily involved in different activities. Ethnic minority parents seem to be more involved in “reactive” activities i.e. pre-arranged and highly-regulated activities, with expected forms of interaction such as regular contacts with teachers and attending Parent-Teacher Association meetings. Chinese parents by contrast mainly served as school volunteers and attended school information sessions, which are more open-ended and proactive in nature. The study theorised that such proactive activities required a higher level of cultural competence which may be more difficult for ethnic minority parents to achieve.

At least four separate studies⁶⁷ have found that parents of ethnic minority students report a lack of communication between parents and teachers due to difficulties such as language barriers: some ethnic minority parents do not understand Chinese and on the other hand, some teachers are reluctant to communicate in English. The studies note that in particular, parent-teacher association meetings are often conducted in Chinese, making it impossible for ethnic minority parents to participate meaningfully and understand fully the content of the discussions pertaining to the performance of their children. The studies also find that notices distributed by the schools are often written in Chinese without English translations. The failure to understand school notices means that the ethnic minority parents sometimes miss important announcements such as calls for applications for financial aid or other important school-related matters that could impact the interests of their children. In fact, some parents have said that the lack of general support for them and the inaccessibility of the school teachers due to these communication barriers often leaves them with little choice but to send their children to “designated schools.”

Finally, both the HKCSS Parental Involvement Report 2010 and Oxfam’s 2014 study “Survey on the Chinese Learning Challenges South Asian Ethnic Minority Kindergarten Students from Low-Income Families Face” found that ethnic minority parents rarely rely on official governmental sources of information. The HKCSS study found that a mere 9.3% of ethnic minority parents rely on government offices and 5% on government websites as a source of information. The Oxfam survey reported similarly low rates – with 11.4% of parents relying on government offices and 19.1% on websites.

These difficulties faced by ethnic minority parents appear to be well-known to teachers and other school staff. In the 2013 paper “Building a Connected Classroom: Teachers’ Narratives about Managing the Cultural Diversity of Ethnic Minority Students in Hong Kong Secondary Schools”, the surveyed teachers said they noted differences in the degree and method of involvement of parents of different ethnicity in their children’s education. They noted many of the challenges discussed in this section and described how they adopt initiatives to increase access for ethnic minority parents, such as by holding school activities on weekends with translator support or in community centres (and not on-campus). These initiatives appear to be adopted on an *ad hoc* basis and not as the result of any systematic policy.

D. MAJOR OBSTACLE: LEARNING THE CHINESE LANGUAGE

Language barriers hinder the overall learning experience of ethnic minority children at school, especially when other subjects apart from language are taught in Chinese. Without a solid grasp of Chinese, it will naturally be difficult for ethnic minority students to acquire knowledge in other areas with Chinese as the medium of instruction (“CMI”). For this reason, many ethnic minority children (or their parents) tend to prefer schools with English as the medium of instruction (“EMI schools”). The difficulty in EMI schools, on the other hand, is the lack of a ‘Chinese as a Second Language’ (“CSL”) curriculum allowing ethnic minorities to learn Chinese on a competitive basis with their local counterparts and earn a qualification in Chinese which is recognized by academic institutions or employers as adequate, allowing ethnic minorities to meet the minimum requirement for university entrance and meet the daily demands at work in Hong Kong.

At the kindergarten level, most schools admitted no or a few ethnic minority students.⁶⁸ The majority of kindergartens conduct the admission screening interview in Cantonese, which is an impossible task for a 3-year-old who does not come from a Chinese family.⁶⁹ The consequence is that many ethnic minority students simply did not go to kindergarten at all, thus affecting their development in social skills and language.⁷⁰

For those ethnic minority children who have a kindergarten education, this is mainly in English.⁷¹ Most kindergartens which admit ethnic minority students encounter difficulties given the students’ varying Chinese abilities, language and communication barriers experienced between parents and schools, and the lack of support from the Government to train teachers.⁷² The majority of kindergartens do not offer any assistance to ethnic minority students in learning Chinese.⁷³

D.1 Primary and Secondary Education

The majority of ethnic minority students are interested in learning Chinese at school for future studies, employment and everyday life.⁷⁴ However, there is currently no professionally trained teacher for non-Chinese speaking students to support their language learning needs.⁷⁵ Most teachers lack expertise in teaching Chinese as a foreign language, hence adversely affecting the quality of teaching.⁷⁶ The existing Chinese curriculum does not cater for the special learning needs of the non-Chinese speaking ethnic minorities.

Louisa Castro, a liberal studies teacher at a “designated school” says her students cannot even write their schools’ names in Chinese after six years’ of Chinese language classes. Although Castro herself can speak fluent English, Cantonese and Mandarin but she has very limited proficiency in written Chinese.⁷⁷

The fact that ethnic minorities students have a generally much lower standard in reading and writing than speaking echoes with the fact that written Chinese and spoken Cantonese require two separate systems of learning. Hong Kong Christian Service (HKCS) conducted a survey on a group of 1262 parents about pre-primary school education. 91.1% of the respondents agreed that the learning of written Chinese requires special teaching methods and materials; whereas 56.2% of them thought that translating oral Cantonese into written Chinese is a difficult process; and over 40% of the parents felt difficult for their children to learn Chinese well in “Bi-literacy and Tri-lingualism” environment.⁷⁸ If even native Chinese students experience difficulties, then the ethnic minority students would face much greater hardship.

There are no appropriate Chinese textbooks in the market targeted at ethnic minority students, and consequently schools have to come up with their own teaching materials.⁷⁹ Although the Education Bureau issued a “Supplementary Guide to the Chinese Language Curriculum for NCS students” back in November 2008,⁸⁰ the quality of the teaching materials developed varies substantially. In 2014/15, the Education Bureau issued a “Chinese Language Curriculum Second Language Learning Framework”, intended to help Non-Chinese Speaking (NCS) students overcome difficulties in learning Chinese as a second language, with the ultimate aim of enabling them to sit for the HKDSE exam.⁸¹ While the Government’s change in mentality should be welcomed, there has not been any comprehensive “Chinese as a Second Language” policy.⁸² Further, there is no such framework for kindergarten-level education.⁸³

D2. Teaching Chinese as a Second Language

For over a decade, Hong Kong Unison and other concern groups have been urging the Government to consider adopting the CSL Policy. Professor K. W. Chan pointed out that the resistance of the Government towards adopting the CSL Policy creates significant difficulties for ethnic minority students in learning the Chinese language. In his words,⁸⁴

*“At present, non-Chinese speaking students have to study the Chinese Language under the same curriculum as the local students do. Yet, it is impossible to expect that the former will be able to catch up with the level of local students! Unlike the local students, Chinese is not the mother tongue of the ethnic minority students, and therefore the latter often face significant challenge in their learning process. Besides, Chinese is not a language that is easy to master. **To enable ethnic minority students to learn Chinese effectively, the curriculum must be tailored to what they can realistically master and not force upon them an impossible standard.** For instance, it will probably make much more sense to do away with the Chinese literature and Chinese culture elements in the curriculum for ethnic minority students – what they need is the basic ability to read and write, and apply the language skills on a daily basis.” (translated)*

The system is not only unfair as between ethnic minority students and their Chinese counterparts – unfairness stems also from the fact that the more affluent ethnic minority students who can afford the more expensive fees of international schools could simply get away with not taking GCSE Chinese. For instance, they may take other language subjects in the IB or GCSE, or even if they do take GCSE Chinese, they can be unaffected by its inherent disadvantages in applying to JUPAS by pursuing tertiary education overseas. On the other hand, the less fortunate groups are stuck in the ‘handicapped’ system. There is no reason why a child’s basic right to education should be curtailed by his financial means.

In March and September 2013, an ethnic minority representative drew the matter to the attention of the United Nations Human Rights Committee (“UNHRC”) and Committee on the Rights of the Child (“UNCRC”) respectively. In both Committees’ Concluding Observations on Hong Kong’s compliance with their treaty obligations under the ICCPR and the CRC, members expressed concern over the impact of isolation and exclusion of ethnic minority children from mainstream schools on the proper development of children as well as their chances of accessing higher education opportunities and finding suitable employment due to their poor Chinese language skills.

The UNCRC Rapporteur, Maria Herczog, urged the Government to (1) ensure that all children will have access to quality education in schools and have adequate Chinese language skills, and (2) find good solutions and pay heed to the many successful examples of educational arrangements for minority children in jurisdictions around the world.

UNCRC Rapporteur
Maria Herczog has urged
the Government to

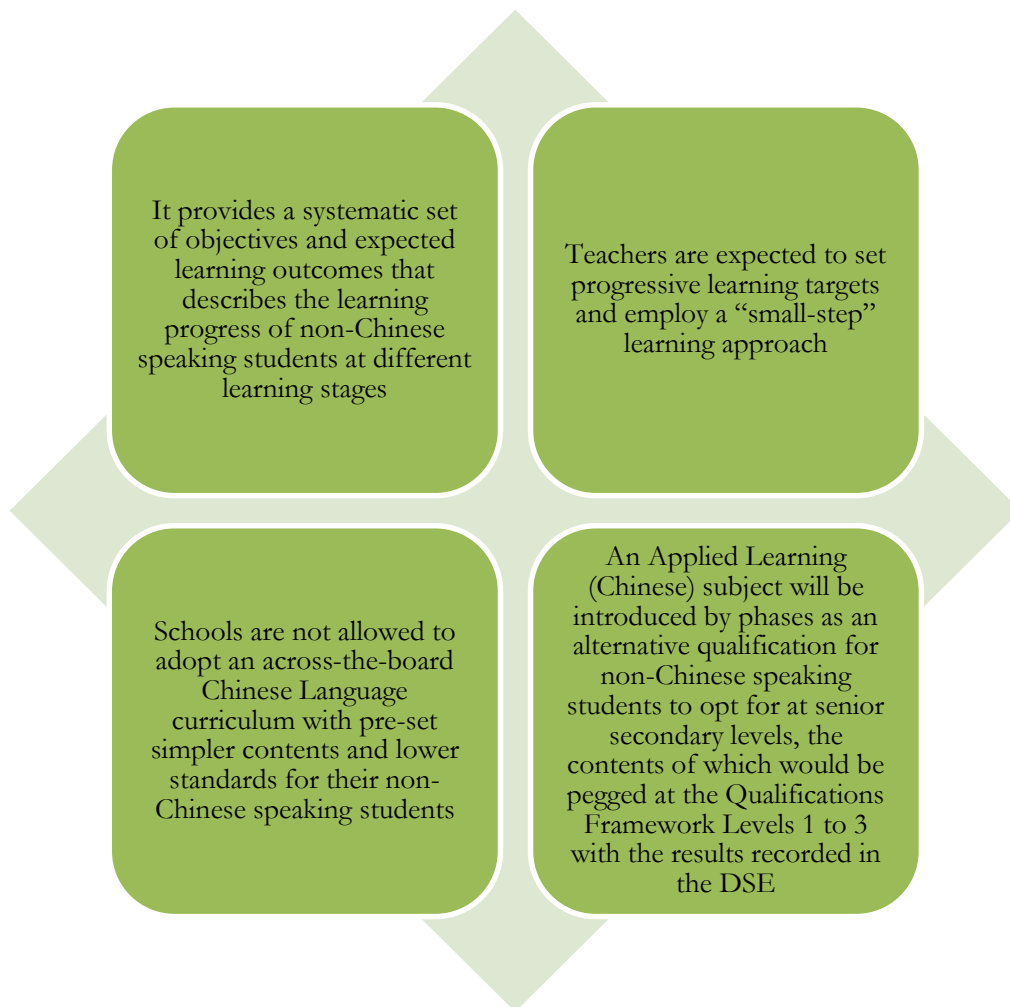
- ensure that all children will have access to quality education in schools and have adequate Chinese language skills, and
- find good solutions and pay heed to the many successful examples of educational arrangements for minority children in jurisdictions around the world.⁸⁵

In fact, in many countries such as the United States, United Kingdom, Canada, and Australia, an ‘English as a Second Language’ curriculum (“ESL”) is routinely offered to non-native students to maintain a fairer competitive platform and most importantly, to equip them with the skills and vocabulary to enable their gradual progress in the mastery of the language so that they are well positioned to catch up with their local counterparts by the time they reach their senior secondary schooling years. These governments additionally ensure that ESL qualifications are accepted and recognized by academic institutions and employers in order to facilitate the long-term integration of minorities into society and community life. In light of the widespread nature of such ESL curricula being developed and used effectively to achieve harmonization of a plural community, it is difficult to comprehend the Hong Kong Government’s resistance to an equivalent proposal to develop a CSL curriculum and be a global pioneer in such an effort.

The failure to tailor educational curricula to make them accessible to ethnic minority students so that they can graduate with skills on par with their local counterpart may constitute indirect discrimination by undermining their right to equal education and their future prospects for higher education, employment and integration in Hong Kong. Furthermore, current policies which encourage or leave parents with little option but to send their children to “designated schools” leading to racial segregation in the local schooling system violate principles of equality and non-discrimination and may constitute breaches of the Hong Kong government’s obligations under the CERD, the HKBL and the RDO. Substantive equal treatment and standards of non-discrimination require the government to take steps and implement measures to address the education gap to ensure parity of treatment in terms of comparable outcomes for ethnic minority children and their local counterparts going through the local education system.

As discussed above, the Chief Executive of the HKSAR in his 2014 Policy Address made a commitment to change the existing system. Starting from the academic year 2014-15, the Education Bureau introduced in all schools the “Chinese Language Curriculum Second Language Learning Framework” (“Learning Framework”) with a view to bridging ethnic minority students over to mainstream Chinese Language classes.

The Learning Framework introduces measures regarding curriculum development, training and resources for teachers as well as monitoring and evaluation. Major features of the Learning Framework includes:-⁸⁶



Complementary support measures will be set up to enhance teachers’ professional development in teaching Chinese as a second language, enhance funding support to schools to provide intensive learning of Chinese (increased to about \$200 million) and provide enhanced professional support for schools.

Lack of Recognized Alternative Qualification in Light of Inadequacies of the Chinese Language Curriculum for Ethnic Minority Students

The systemic problems that plague ethnic minority students culminate in failure at the end of their secondary schooling career, when students have to sit the Hong Kong Diploma of Secondary Education (the “DSE”) public examination. The curriculum for the Chinese Language subject in the DSE examination is designed to be difficult, even by on the standards of local students who are native Chinese speakers. This makes it extremely difficult for ethnic minority students to sit the public examination on an equal basis with their local counterparts, who themselves struggle with the subject. Ethnic minority students fear failure or poor grades in this subject which would ultimately compromise

their transcript and impact future employment prospects. In light of the difficulties in catching up with Chinese language education, ethnic minority students often opt for alternative qualifications in the Chinese Language, such as the General Certificate of Secondary Education in Chinese (“GCSE Chinese”). In 2012, only about 20% of ethnic minority students took the HKDSE Chinese exam. The GCSE Chinese standards, however, roughly match that of Primary 3 in Hong Kong, and tertiary institutions and employers doubt ethnic minority students’ fluency in Chinese.⁸⁷ Even getting grade ‘A’ in GCSE Chinese is not comparable to a pass in the HKDSE Chinese counterpart.⁸⁸

Yet, the practicality of this alternative as a viable one has repeatedly been called into question, for the following reasons:

(1) Low Standard of GCSE Chinese Language course compared to Chinese Language Curriculum offered in local schools

The GCSE Chinese course level is the rough equivalent of the Primary 2 level Chinese curriculum in Hong Kong.⁸⁹ Thus, typically, an ethnic minority student who performs satisfactorily on the GCSE Chinese examination is still only presenting themselves as competent to the level of Primary 2 Chinese. Furthermore, since the content of the GCSE Chinese course is designed by an international institution, it is not reflective of the substance and skills and does not meet the market demand in Hong Kong. This results in students not being equipped with the requisite vocabulary for daily usage (at work or for social purposes) as may be expected of them in Hong Kong. For instance, an ethnic minority student who had been educated in Hong Kong since kindergarten and had obtained a Level 3 pass in GCSE Chinese Language after studying at one of the “designated schools” reportedly had to terminate his internship with a fast food chain in Hong Kong due to language barriers. He found it extremely difficult to catch up with the orders of customers, which included colloquial phrases such as “no ice” or “more milk.” It was not until then that he realized that what he had learned in school and his after-class tuition was inadequate to enable him to cope with daily demands of spoken Chinese in the local setting.⁹⁰

(2) Lack of Recognition of GCSE Chinese Language Qualification as a comparable alternative to DSE Chinese Language Qualification

Because of the comparatively low standard of the GCSE Chinese Language subject, its recognition and acceptance by schools, tertiary education institutions and employers in Hong Kong remain questionable at best and in poor priority at worst. Although the eight UGC-funded Universities in Hong Kong have agreed to accept alternative qualifications such as the GCSE grades under “specified circumstances” since 2008 when considering university applicants, instances of applicants bearing a GCSE Chinese qualification being accepted on the basis that they are competent in Chinese remain rare.⁹¹ This puts ethnic minority students at a serious disadvantage when competing with their local counterparts for university or employment placements and renders the GCSE Chinese Language course an ineffective alternative that does not help equalize their positions at all.

(3) Late Release of GCSE Results

Due to the difference in timing of the release of the examination results, which for GCSEs is late August whereas for the DSE examination is July, many ethnic minority students are rejected by local tertiary education institutions when they apply under the Joint Universities Placement and Admissions Scheme (“JUPAS”) for failure to produce proof of proficiency in Chinese Language in time. This is because, since the JUPAS announces its results by early August, it requires students to submit non-DSE qualifications before April⁹². This timeline greatly reduces their chances of admission.

This is no doubt a significant reason for the low percentage of ethnic minorities being able to pursue tertiary education in Hong Kong. If on the one hand, tertiary institutions have agreed to accept GCSE Chinese grades as an alternative qualification for applications for entry, but on the other hand, refuse to wait for the release of such results, it reflects a non-committal attitude and one that perpetuates the disadvantage and lack of equal access to educational opportunities faced by ethnic minority students.

Although not all university programmes require Chinese for admission, ethnic minorities predominantly enroll in the JUPAS system, which makes it a requirement that they study Chinese. In the circumstances, their performance in the subject ends up counting towards their ‘total points’ for university admission.

(4) Eligibility to Sit the GCSE Chinese Language Examination

Not all students can opt to take the GCSE Chinese Language Examination as an alternative to the DSE Chinese Language Examination. Ethnic minority students who have studied in mainstream government schools teaching the local curriculum for six years or more are debarred from taking the GCSE Chinese examination.⁹³ The logic behind this rule is that, having had the benefit of learning Chinese in an immersive environment, such students should have acquired the necessary level of competence in Chinese and therefore, should not be allowed to sit the ‘easier’ GCSE Chinese Language exam and should compete on an equal footing with other students taking the DSE Chinese Examination.

However, these students who are “forced” to take the DSE often fail in the examination because effective learning in an environment which practices language immersion strategies requires a Chinese as a second language learning framework to complement such immersion tactics. Even in an immersive environment, ethnic minority students, being non-native speakers, cannot be expected to pick up the language and vocabulary at the same rate as their local counterparts.⁹⁴

We therefore see a dilemma faced by ethnic minority students: they either choose to study in local schools in hopes of learning Chinese in a more effective manner and risk failing the DSE examination, or they resort to enrolment in the schools that continue to operate with a high concentration of ethnic minority students despite the now disbanded “designated schools” policy. Here they are deprived of the opportunity to learn and practice Chinese effectively due to the lack of training in teaching Chinese as a second language given to teachers and a generally lower standard of Chinese level that is taught in these schools. The other alternative, of course, is if they have the resources to afford attending international or English School Foundation schools, they may do so. However, given the situation of most ethnic minority families as depicted in the Chapters on Poverty and Social Welfare, and The Employment of Ethnic Minorities, this appears to be a non-option.

Some ethnic minority students choose to study French instead of Chinese to help their enrolment at local universities.⁹⁵ The downside is that French is almost useless in Hong Kong, and not knowing Chinese hinders their employment.

The defects of the current education system invariably increase the hurdle of university entrance for ethnic minorities. All UGC-funded institutions, whether they use EMI or CMI, adopt a common approach to the acceptance of alternative Chinese-language qualifications for local minority students. Those applying through JUPAS, who have followed a local curriculum and wish to apply for a non-local Chinese qualifications to be accepted, have to show either:

- that they have been educated in Hong Kong for less than 6 years, or
- that they have been taught an adapted and simplified Chinese language curriculum

Otherwise they will be required to show the same Chinese qualifications as local Chinese students.⁹⁶

Given that Hong Kong is a predominantly Chinese-speaking city, the absence of a coherent and effective Chinese as a Second Language education policy for ethnic minorities creates a huge obstacle for them to participate meaningfully in society, not only leaving them unable communicate well, but also depriving them of access to information, services and equal opportunities across a range of spheres, including education, employment, government services and social participation.⁹⁷

Since the adoption of the ‘mother-tongue teaching policy’ in 1997, the majority of local primary and secondary schools adopted Chinese as the principal medium of instruction (earning the label, “CMI schools”). In 2013, only 112 out of 400 secondary schools adopted English as the principal medium of instruction (earning them the label “EMI schools”), whilst the rest operated as CMI schools. Considering the fact that EMI schools are more competitive and have higher entry requirements which invariably require competence in a certain level of Chinese, ethnic minority students are often only able to gain admission to CMI schools rather than EMI schools. Outside of the government-subsidized schools (also referred to as “mainstream” schools), private or international schools often adopt English as the principal medium of instruction. Yet such schools are also often inaccessible to ethnic minority students as they charge school fees which most ethnic minority students cannot afford.

In CMI schools, ethnic minority students tend to find their classroom experiences incomprehensible most of the time. The obstacles they encounter in learning Chinese invariably have a negative impact on their performance in other subjects, which are also taught in Chinese at CMI schools.⁹⁸ This perpetuates a cycle of poor performance at school, which contributes to the steady decline of their grades. This frequently fuels a gradual loss of self-confidence and tendency to self-blame as students internalize the negative critique dispensed by teachers, who accuse ethnic minority children of being difficult, unmotivated, lazy and unintelligent. This, in turn, has an adverse effect on the development of the children and particularly, on their key learning abilities.

Due to such systemic defects, ethnic minority students often find that no matter how hard they study, they still fall behind their ethnic Chinese peers. Unfortunately, with the prospects of excelling academically being far from their reach unless they can supplement their school-based learning with extra support classes, a luxury in itself given the expenses entailed, many students lose interest and give up.⁹⁹ In some cases, ethnic minority students drop out before completing secondary education, to join the labour force and avoid being an economic burden on their family given their poor prospects for graduation or further education.¹⁰⁰ Some teachers have even said that they may give up on ethnic minority students in the Chinese subject because the chance of their obtaining a pass is extremely slim.¹⁰¹

According to the 2011 report published by the Equal Opportunities Commission (“EOC”) entitled “Education for all: Report on Working Group on Education for Ethnic Minorities,” low proficiency in the Chinese language was proven to be a major obstacle to ethnic minority students’ advancement in education.

Although ethnic minority students may, based on their Chinese qualifications in GCSE, IGCSE or GCE, be considered under the Joint University Programmes Admission System (JUPAS) and admission to sub-degree programmes,¹⁰² the lower weightiness given to these qualifications in practice means that only about 1% of ethnic minority students are admitted into universities each year, compared to about 20% Hong Kong Chinese students.¹⁰³ Many university programmes are conducted in Chinese or require Chinese for admission.¹⁰⁴ Since 2008/09, universities may exercise discretion in considering whether a lower Chinese proficiency level suffices for admission.¹⁰⁵ Despite this discretion, there is no noticeable increase in the proportion of ethnic minority students receiving tertiary education.¹⁰⁶

As mentioned above, ethnic minorities students encounter great difficulty in meeting the minimum standard in Chinese in order to move upward to receive tertiary education and thereby get a career with better prospects and higher incomes, the education system creates a vicious circle of poverty that hinders social mobility of the minorities.¹⁰⁷

As the statistics in the Chapters on Employment of Ethnic Minorities and Poverty and Social Welfare in this Report show, this singular indicator offers key insights into the primary reasons for the underrepresentation of ethnic minorities across a range of spheres, for example, tertiary education,¹⁰⁸ civil service¹⁰⁹ and income levels¹¹⁰. This also foreshadows the overrepresentation of ethnic minorities in certain categories and groups, for example, those living below the poverty line,¹¹¹ with certain health conditions,¹¹² and are concentrated in particular industrial or manual labour.¹¹³

D4. Chinese Language Curriculum Second Language Learning Framework – Next Steps

At noted, we see some progress in the shape of the “Chinese Language Curriculum Second Language Learning Framework” – the first step the Government is taking to restructure the education system to cater for the special needs of ethnic minorities.

That said, we cannot be overly optimistic about the proposal just yet. Whilst it is appreciated that the ultimate goal is to ensure that non-Chinese speaking students will be able to eventually learn the Chinese Language on par with their Chinese-speaking counterparts, the Learning Framework appears to be overly aggressive. By immediately imposing a “level-playing field”, for instance, by prohibiting schools from administering a Chinese curriculum with simpler contents to non-Chinese speaking students, it is questionable whether such a rigid approach is compatible with the desire to make the Chinese language learning gradually equally accessible to such students. Moreover, it remains to be seen whether the more deep-rooted problems such of cultural insensitivity and racial segregation can be eradicated under the new policy and if parents simply ‘opt’ to continue sending their children to the old designated schools because they lack confidence in the effectiveness of the new measures and would not want their children to be guinea pigs.

Two exceptional government schools have stepped up support for bilingual learning by offering a combined English-Chinese curriculum, such as providing language assistance through projects, debate, sports and field trips; and teaching arts, design, home economics, music and physical education in both English and Chinese.¹¹⁴ Where there are examples of successful models for enhancing the educational prospects of ethnic minorities, the Government should take heed.

It is hoped that the Government will approach the challenges faced by ethnic minority students with a more holistic view. As Professor Kennedy emphasizes, the obstacle lies not only on the “language” front. There should also be effective monitoring and continuous evaluation in the trial process to allow improvements to be made and to ensure that ethnic minority students are truly benefiting from and are able to adapt to the new curriculum. Competency in the Chinese Language is but the first step for ethnic minority students.

E. SYSTEMIC FAILURES IN GOVERNMENT POLICYMAKING IN RELATION TO INCLUSIVE LEARNING ENVIRONMENTS

The challenges faced by ethnic minority students described in the preceding sections are exacerbated by systemic failures of official government policymaking. Major areas of concern include the lack of any discussion related to an official policy for multicultural classrooms and the piecemeal nature of assistance programs for ethnic minority students.

E1. Multiculturalism in the School Environment

Academics have theorised how liberal-democratic societies require both antidiscrimination policy (to minimise adverse reactions to cultural diversity) and multiculturalism policy (to promote positive displays of cultural diversity). Hong Kong’s policy context, however,

seems to mainly focus on the antidiscrimination aspect and neglects the multiculturalism aspect¹¹⁵.

The prevailing policy towards handling cultural diversity in the classroom appears to be “equality for all”, notwithstanding a wealth of frontline teachers’ experience suggesting that this is not conducive to creating an effective learning environment. In multiple studies conducted by Professors Hue and Kennedy, frontline teachers have suggested that the current “Confucian” understanding of multiculturalism, with fairness and non-favouritism at its core, may have to give way to a more outcome-oriented approach based on substantive equality.¹¹⁶

Frontline teachers also noted that bringing the distinct backgrounds of ethnic minority students into the open, instead of ignoring them, may improve the learning environment as a whole. In the paper “Creating Culturally Responsive Environments: Ethnic Minority Teachers’ Constructs of Cultural Diversity in Hong Kong Secondary Schools”, teachers who themselves had an ethnic minority background noted that they would use their own cross-cultural experiences in Hong Kong to help their ethnic minority students come to terms with their backgrounds and minor acts of racism, so as to develop their students’ sense of identity.

Recent studies have hinted at the substantive benefits of celebrating diversity in the classroom, which highlights the need for social dialogue and policy discussion on how to harness such benefits. First, students benefit academically from classroom diversity. In a study conducted by Professor K.T. Hau in 2008, it was found that most ethnic minority students who studied in mainstream CMI schools benefited from mainstream schooling in terms of their improvement in academic scores.¹¹⁷ Professor Hau’s study suggests that the presence of a larger group of Chinese students provides a more conducive environment for learning the Chinese language, with trickle-down effects to other subjects taught in Chinese. This academic improvement has also been noted in the HKCSS Policy Bulletin 2013.

Second, non-minority students also benefit from a diverse classroom. While there is a lack of research on this specific point in the Hong Kong context, overseas studies at the university level have demonstrated the positive learning outcomes for non-minority students in ethnically diverse learning environments.¹¹⁸ Notable benefits include more complex and flexible thinking developed from exchanges of ideas between non-minority and minority students, more effective group-based problem-solving and perhaps most importantly, a diminished likelihood of stereotyping leading to higher levels of cultural competence.¹¹⁹

Teachers themselves also report benefiting from diversity in the classrooms. In the paper entitled “Building a Connected Classroom: Teachers’ Narratives About Managing the Cultural Diversity of Ethnic Minority Students in Hong Kong Secondary Schools”, Chinese teachers reported having to visit ethnic minority students’ communities in their attempts to connect with parents. They generally reported a significant improvement in their attitudes towards their ethnic minority students after understanding the difficulties they face and getting to know their parents.

E2. The Impact of ‘designated schools’ on Racial Segregation: A Critical Failure of Education Policy

Since 2004, all non-Chinese speaking students are eligible to study in government-subsidized schools. These are the government aided schools using Chinese as the

medium of instruction (“CMI schools”).¹²⁰ However, most ethnic minority students still go to the “designated schools”.¹²¹ These are the primary schools “designated” to receive extra funding to provide language support for linguistic minorities.

Since mainstream schools offer little language support and parents are worried about social isolation, racism and bullying to their children at school, most parents choose the ‘designated schools’.¹²² There has been a gradual trend of decreasing number of non-Chinese speaking students attending the mainstream schools. They opted for the ‘designated schools’ instead.¹²³ As a result, there is a greater proportion of ethnic minority students in ‘designated schools’ than in mainstream schools. The student population of ethnic minorities at some of these schools even reaches 80-90%.¹²⁴ They therefore lack opportunities to contact and interact with local students and have greater obstacles in integrating into local Chinese community.

Professor Kennedy points out that there are broader policy issues that are under-addressed. He argues that the Government has focused too narrowly on the issue of language alone by labeling ethnic minority students as “non-Chinese speaking students.” Such a label gives the false impression that “language deficit is the only characteristic that defines them.”¹²⁵ He observes that early LegCo debates originally employed the term “ethnic minorities”; it was not until around 2009 that the focus has shifted to non-Chinese speaking students. This change, he says, is not only one of linguistics, but “signifies an attitude to difference and probably an objective of not highlighting differences in Hong Kong society.”¹²⁶

What ethnic minority students need is not only a solid foundation in the Chinese language – to be fully integrated into the community there needs to be a holistic framework molding Hong Kong into a more inclusive and harmonious society, where the needs of ethnic minority students (and not just their needs in terms of language abilities) can be fully understood and looked after.

Public education certainly plays an important role in promoting acceptance and racial harmony. Research has shown that challenges to ethnic minority students not only stem from the failure of the education system but from the discriminatory attitude of Chinese parents as well. The Equal Opportunities Commission reported that Chinese parents have a tendency of not sending their children to schools with a high intake of ethnic minority students. This is affirmed, for example, by the findings in Chapter 1 of this Report on Perceptions and Self-Perceptions. For instance, where the intake of ethnic minority students into a particular school increased, it was not uncommon to see that Chinese parents would avoid sending their children there or even change schools for the children already enrolled, rendering the school unable to provide an environment conducive to learning the Chinese language.¹²⁷

E3. Piecemeal Assistance Programs

The Education Bureau has introduced some measures to address the language needs of ethnic minority students. The problem however, is that those measures do not address the real issues that lie at the heart of the matter.

For example, whilst the new funding policy (discussed in C1 above) will provide the targeted schools with more financial assistance to address difficulties faced by ethnic minority students, a number of important issues are overlooked, for example:

- lack of an effective integration policy – ethnic minority students remain segregated from local students;¹²⁸
- lack of an efficient system to monitor how the funds are used;
- lack of structured training to teachers on teaching Chinese as a second language;
- lack of awareness and sensitivity towards diversity and inclusion principles on the part of the relevant schools and teaching staff.

Another ineffective measure is test-taking financial assistance. From September 2011 to September 2013, the Government implemented a subsidy plan which purports to subsidize low-income students, ethnic minorities who are no longer students and “new arrivals” in taking public language examinations, such as the GCSE, GCE and IETLS. However, as it turned out, the number of applicants was much lower than expected, accounting for only 30% of the expected figure with a total of HK\$310,000 spent in subsidies. Among the pool of applicants, only less than 10% were ethnic minorities. Clearly, this measure, whilst useful to some extent, does not address the crux of the issue: what ethnic minorities need the most is not a subsidy to take alternative examinations but a system in which they can compete fairly with their local counterparts having had an equal opportunity to fully master the linguistic and substantive skills across courses in the education curricula.

F. INTERNATIONAL LAW RELATING TO *DE FACTO* SEGREGATION AND DIFFERENTIAL TREATMENT OF MINORITIES IN THE EDUCATION SETTING

This section explores the legal approaches adopted in various jurisdictions concerning the equality of education of ethnic minorities.¹²⁹

The European Court handled several cases in recent years regarding the discrimination of Roma children in their enjoyment of the right to education. These children attended classes separate from mainstream education, and they suffered from the lack of social mobility and network.

In *Horváth and Kiss v Hungary*,¹³⁰ two Hungarian nationals of Roma origin were diagnosed as having mental disabilities. They studied in remedial schools created for children with mental disabilities. Half of the students in these schools were Roma, even though Roma represented just 9% of the overall number of primary school students. A meagre 0.5% of students with special needs could take part in integrated mainstream secondary education, thus limiting their access to higher education and employment. Academics have expressed that the systemic misdiagnosis of Roma children as mentally disabled is in fact a tool to segregate them from non-Roma children. The applicants claimed that their education in a remedial school amounted to discrimination based on their Roma origin. They alleged that their diagnostic assessments were not individualised and culturally biased, and that they had become stigmatised after having been placed in schools with a limited curriculum.

The European Court held that discrimination based on ethnic origin is a kind of racial discrimination, which is particularly invidious and requiring special vigilance. As a result of the turbulent history of the Roma, they were an especially

vulnerable minority, warranting special consideration to their needs and lifestyle. The State would need to implement positive measures to assist applicants in the school curriculum. An apparently neutral, general policy with disproportionately prejudicial effects on certain ethnic groups may be indirectly discriminatory, unless it is justified by a legitimate aim and the means taken are appropriate, necessary and proportionate. Here, the Court was satisfied that the government's policy exerted a disproportionately prejudicial effect on the Roma, and that the government failed to justify the policy. Although the government desired to provide a solution for children with special educational needs, this resulted in racial segregation. The State has specific positive obligations to avoid perpetuating past discrimination.

The applicants in *Oršuš v Croatia*¹³¹ have spent substantial periods attending separate classes comprising only Roma pupils, with a more limited curriculum than other students. Statistics showed that about 16% of Roma children aged 15 completed primary education, compared to 91% of the general population. The drop-out rate of Roma pupils was 9 times higher. Psychological studies showed that segregated education caused Roma children to have lower self-esteem and identity problems. Various human rights reports expressed concern that Roma children lacked access to education equal to that enjoyed by other children, and that segregated education increased the risk of marginalising Roma children. The government responded that pupils of Roma origin were grouped together not because of their ethnic origin, but because they were not proficient in Croatian, even though Roma pupils received the same quality of education.

The European Court found that the different treatment for Roma children was unjustified. The State has an obligation to take positive measures to help these children quickly acquire fluency in Croatian, by means of special language lessons, so that they could be integrated into mixed classes. To counter the high drop-out rate of Roma children, the Croatian authorities need to assist students with difficulties in the school curriculum.

In *DH v Czech Republic*,¹³² special schools have been established for children with special needs. The applicants were placed in special schools with their parents' consent. They alleged that their intellectual capacity was not reliably tested, and that their parents were not adequately informed of the consequences of their placement in special schools. The practice also resulted in *de facto* racial segregation between special schools for Roma children and ordinary primary schools for the general population. Human rights reports criticised that Roma children were over-represented in special schools and their education rarely went beyond primary school level.

Based on the statistical data submitted by the applicants, the European Court formed the view that the number of Roma children in special schools was disproportionately high. While accepting the government's motivation to help children with special educational needs, the assessments were controversial and biased. Parents of Roma children were not aware of the consequences of sending them to special schools. The differential treatment was again unjustified.

KEY OBSERVATIONS

1. Higher number of ethnic minority students are not in school between 3-5 years of age.
2. Higher rates of dropout from school between ages 13 and 17 among some ethnic minority groups.
3. Overrepresentation of ethnic minority children in select schools leading to *de facto* racial segregation.
4. Lack of Chinese language acquisition – proficiency levels on graduation remain at Primary 2 or Primary 3 levels. Inadequate to access higher education nor vocational training opportunities.
5. Shockingly low rate of university attendance among ethnic minorities compared with Hong Kong Chinese counterparts.

RECOMMENDATIONS

One should note that these recommendations are, to a certain extent, dependent on one another. For example, the move towards a more flexible curriculum which incorporates instructional programs and practices reflecting ethnic minorities' cultural heritages, experiences, and perspectives requires better parent-school communication such that the parents' cultural knowledge can be incorporated into the curriculum. Furthermore, the execution of such a curriculum is highly dependent upon proper teacher training and school support.

This requires that two critical changes be brought about in the present education system. The first is the need to help change the tide of ethnic minority students ending up in the formerly designated schools to help bring an end the *de facto* segregation of ethnic minority students from their local counterparts. Second, the current Chinese as a Second Language Learning Framework must be reviewed for its impact on uplifting the progress of ethnic minorities in the learning of Chinese. The EDB is undertaking its survey of the impact of the framework one year on. The findings on the impact and success of the measures introduced must be made public and discussed with all concerned stakeholders. Where found to be lacking, the curriculum must be refined and necessary support measures, most notably teacher training and re-training measures, must be put into place to assist teachers and schools in achieving enhanced learning outcomes for ethnic minorities.

On access to information:

1. The government should re-evaluate the media channels it uses and the form that the messages take to provide education-related information to ethnic minority communities, taking into account their cultural and religious needs.
2. In particular, the government should provide standardised translations of informational materials into Hindi, Nepali and Urdu.
3. The government should introduce policies to improve the linguistic abilities and social integration of ethnic minority parents (e.g. via more accessible language classes and networking opportunities).

On religious and cultural diversity training for teachers:

1. Schools should be encouraged and provided with funding to hire more ethnic minority teachers and teaching assistants.
2. There should be refresher courses for human rights and cultural sensitivity for teaching staff.
3. Schools should be encouraged to implement outreach policies for teachers and staff.

On curriculum reform:

1. Elements of ethnic minority culture/history should be incorporated into standardised, optional modules to create curriculum flexibility.
2. A heavier focus should be placed on formative assessments as opposed to summative assessments.
3. The EDB should introduce multiculturalism as a formal subject or incorporate it into the existing Liberal Studies curriculum.

4. Mother-tongue and native culture classes for ethnic minority students should be provided to strengthen ethnic identities to build confidence among ethnic minority students and to concretise their sense of belonging and identity to Hong Kong and to their native communities.

On language policy:

1. Greater transparency in the evaluation of the Chinese Language Curriculum Second Language Learning Framework and appropriate modifications in light of failings.
2. At the kindergarten level, the government should increase funding to hire more teachers specifically to deliver Chinese language curricula in an accessible manner.
3. Set up a Teaching and Learning Collaborative Commons to facilitate the sharing of teaching and learning experiences and materials in relation to ethnic minority students.

¹ Anwei Fang and Bob Adamson (eds.), *Trilingualism in Education in China: Models and Challenges* (Springer, 2015).

² Hong Kong Council of Social Service, 'Policy Bulletin: Issue Fifteen, Ethnic Minorities in Hong Kong' (*Hong Kong Council of Social Service*, 30 October 2013).

³ Kerry Kennedy, Ming Tak Hue and Kwok Tung Tsui, 'Comparing Hong Kong Teachers' Sense of Efficacy For Teaching Chinese and Non-Chinese Students' (*The Hong Kong Institute of Education*, February 2008).

<[http://www.ied.edu.hk/diversityproject/Outputs%20and%20downloads/Doc/Cf%20PPTR%20Comparing%20HK%20T%20Sense%20of%20Efficacy%20\(final\).pdf](http://www.ied.edu.hk/diversityproject/Outputs%20and%20downloads/Doc/Cf%20PPTR%20Comparing%20HK%20T%20Sense%20of%20Efficacy%20(final).pdf)> accessed 19 September 2015, which cites Kelly Loper, 'The education, training and language provisions in Hong Kong's race discrimination bill. Presentation made at the Conference on Promoting Racial Harmony? Hong Kong's Race Discrimination Bill in International and Comparative Perspective' (Centre for Comparative and Public Law, 2007) <<http://hku.hk/ccpl/pub/conferences/documents/ppt-KelleyLoper.pdf>> accessed 11 February 2008. Although the exemptions in relation to language were eventually not enacted, this was the result of an oversight of the supporters of the Government's proposed exemption, who erroneously voted down the language exemption when the bill was in its final reading in the Legislative Council.

⁴ Ming Tak Hue and Kerry Kennedy, *Creating Culturally Responsive Environments* (National Institute of Education 2013) 275, which cites H B Ku, K W Chan and K K Sandhu, *A Research Report on the Employment of South Asian Ethnic Minority Groups in Hong Kong* (Centre for Social Policy Studies 2006).

⁵ Sandra Fredman, *Human Rights Transformed* (Oxford University Press 2008) 216.

⁶ Sarah Carmichael, *Language Rights in Education: a Study of Hong Kong's Linguistic Minorities* (Centre for Comparative and Public Law 2009).

⁷ Perhaps due to the under representation or even lack of representation of this ethnic group, there is no data on this group in subsequent categories in relation to this issue.

⁸ The Hong Kong Institute of Education, 'Study on Educational Inequality and Child Poverty among Ethnic Minorities in Hong Kong' (*The Hong Kong Institute of Education*, 29 October 2013). <<http://www.ied.edu.hk/media/news.php?id=20131029>> accessed 19 September 2015.

⁹ Hong Kong Unison, 'Report: Survey on Kindergarten Education for Ethnic Minority Students in Hong Kong' (*Unison Hong Kong*, April 2012). <<http://www.unison.org.hk/DocumentDownload/Researches/R201204%20Kindergarten%20Survey%20Report.pdf>> accessed 19 September 2015.

¹⁰ *ibid.*

¹¹ Hong Kong Unison, 'Research on Kindergarten Support and Attitude towards Ethnic Minority Students in Hong Kong' (*Unison Hong Kong*, July 2015).

¹² Kit-Tai Hau, *Tracking the Adaptation and Development of Non-Chinese Speaking Children (NCS) in Mainstream Schools* (Education Bureau, 11 November 2008) <http://www.edb.gov.hk/attachment/en/student-parents/ncs-students/support-to-school/exe_summary%20eng.pdf> accessed 19 September 2015, 1.

¹³ Equal Opportunities Commission, 'Education for All: Report on the Working Group on Education for Ethnic Minorities' (*Equal Opportunities Commission*, 17 September 2011) <<http://www.eoc.org.hk/eoc/Upload/UserFiles/File/EducationReportE.pdf>> ("EOC Education Report 2011"), 11.

¹⁴ Hong Kong Unison (n 11) 27-28.

¹⁵ 2011 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 5.1.

¹⁶ South China Morning Post (22 April 2014), *Parents in Hong Kong struggling with rising cost of English-language education*.

¹⁷ Hong Kong Unison (7 June 2015), Research on Ethnic Minority Parental Choice in Primary School Selection: Executive Summary ("Unison Primary School Research 2015"); Unison Kindergarten Research 2015, pp.11-12.

¹⁸ Loper (2004), p.9.

¹⁹ Census and Statistics Department, 'Thematic Report: Ethnic Minorities' (*Census 2011*, December 2012), Table 5.1.

²⁰ The Hong Kong Institute of Education (n 8).

²¹ Director of Bureau, Secretary for Education, 'Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2015-16, Session 13' (*Education Bureau*, 2015), pp. 224-230, <<http://www.edb.gov.hk/attachment/en/about-edb/press/legco/others/EDB-2-e1.pdf>> accessed 19 August 2015.

²² Hong Kong Council of Social Service, (n 2).

²³ Table reproduced from HKCSS Bulletin No. 15, Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013).

²⁴ Census and Statistics Department, 'Thematic Report: Ethnic Minorities' (December 2012), Table 5.2, for data including foreign domestic helpers; adjusted data excluding foreign domestic helpers was published by the Hong Kong Council of Social Service in its Bulletin No. 15, Hong Kong Ethnic Minorities 2013.

²⁵ The Hong Kong Institute of Education (n 8).

²⁶ Dennis Chong and others, 'Relieved Ishaq a major star within a minority' *South China Morning Post* (Hong Kong, 21 July 2012) <<http://www.scmp.com/article/1007316/relieved-ishaq-major-star-within-minority>> accessed 19 September 2015.

²⁷ York Chow, "Ghetto treatment blocks advance of Hong Kong's ethnic minority students" *South China Morning Post* (Hong Kong, 26 September 2013) <<http://www.scmp.com/comment/insight-opinion/article/1317614/ghetto-treatment-blocks-advance-hong-kongs-ethnic-minority>> accessed 19 September 2015.

²⁸ Dennis Chong and others (n 26).

²⁹ Carmichael (n 6).

³⁰ Cultural competence is defined in the report as, "the ability to comprehend and to apply a set of culturally specific knowledge, skills, attitude and judgments that one needs to accomplish certain tasks or achieve certain ends."

³¹ Hong Kong Unison, 'Research on Ethnic Minority Parental Choice in Primary School Selection: Executive Summary' (*Legislative Council*, 8 June 2015) <<http://www.legco.gov.hk/yr14-15/english/panels/ed/papers/ed20150608cb4-1131-1-e.pdf>> accessed 19 September 2015, ("Unison Primary School Research 2015").

³² This section benefited from the contribution of Trisha Tran, a Hong Kong ethnic minority mother with an EM SEN child. In 2014, Trisha set up the Concerned Parents and Friends of SEN Children group.

³³ Education Bureau, Primary One Allocation Guidance Notes 2015, Appendix 3.

³⁴ Table 1, Number of Primary Schools by District and by Sector, 2013/14 School Year, Session 20 EDB, Director of Education, Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2013-14, p. 375, Appendix 1(b), available at, http://www.legco.gov.hk/yr12-13/english/fc/fc/w_q/edb-e.pdf, accessed 23 August 2015.

³⁵ Jason Lam, Education Bureau, Letter dated 23 October 2014, addressed to Concerned Parents and Friends of SEN Children, on file with author ("Letter to Concerned Parents and Friends of SEN Children"). See also, Number of students with SEN studying in public sector ordinary primary and secondary schools by major SEN types from the 2009-2010 to 2013-2014 school years, Controlling Officer's Reply Serial No. EDB356 for the special meeting of the Finance Committee to examine the Estimates of Expenditure 2014-2015, Appendix 1, on file with author ("Number of students with SEN studying in public sector ordinary primary and secondary schools by major SEN types").

³⁶ Letter to Concerned Parents and Friends of SEN Children, p. 2.

³⁷ Number of students with SEN studying in public sector ordinary primary and secondary schools by major SEN types.

³⁸ Director of Bureau, Secretary for Education, 'Replies to initial written questions raised by Finance Committee Members in examining the Estimates of Expenditure 2015-16, Session 13' (*Education Bureau*, 2015) <<http://www.edb.gov.hk/attachment/en/about-edb/press/legco/others/EDB-2-e1.pdf>> accessed 19 August 2015.

³⁹ Education Bureau, '質素評核報告 (以區域劃分)' (*Education Bureau*, 1 April 2015) <<http://www.edb.gov.hk/tc/edu-system/preprimary-kindergarten/quality-assurance-framework/qr/qr-report/index.html>> accessed 19 September 2015.

⁴⁰ Hong Kong Unison, "Catalogue of resources for teachers on teaching ethnic minority related topics of Liberal Studies" (*Hong Kong Unison*, 2014) <http://www.unison.org.hk/DocumentDownload/LS%20Resources%20Kit_Jun,14.pdf> accessed 19 September 2015.

⁴¹ Kerry Kennedy et. al., 'Educational Provision for Ethnic Minority Students in Hong Kong: Meeting the Challenges of the Proposed Racial Discrimination Bill, a Public Policy Research Project (HKIED8001-PPR-2), First Interim Report' (*The Hong Kong Institute of Education*, 2011) <http://www.ied.edu.hk/diversityproject/Outputs%20and%20downloads/Doc/First%20Interim%20Report_final.pdf> accessed 19 September 2015. See also H Ku, K Chan and K K Sandhu, *A Research Report on the Education of South Asian Ethnic Minority Groups in Hong Kong* (Centre for Social Policy Studies 2005) 6.

⁴² Home Affairs Department, 'Meeting Minutes of the Committee on the Promotion of Racial Harmony' (*Home Affairs Department*, 24 April 2007). <<http://www.had.gov.hk/rru/english/aboutus/files/minutes20070424.doc>> accessed 19 September 2015.

⁴³ See full list of "designated schools": Hong Kong Unison, 'Controlling Officer's Reply to Initial Written Question' (*Hong Kong Unison*, 26 March 2013) <http://www.unison.org.hk/DocumentDownload/Designated_School_percent_EN.pdf> accessed 19 September 2015.

⁴⁴ Education Bureau, 'Legislative Council Panel on Education Progress of Support Measures for Non-Chinese Speaking Students (2011), LC Paper No. CB(2)1213/10-11(01), p.7. Available at: <<http://www.legco.gov.hk/yr10-11/english/panels/ed/papers/ed0314cb2-1213-1-e.pdf>> accessed 19 September 2015.

⁴⁵ Hong Kong Unison and Society for Cultural Integration, 'Joint Submissions of Hong Kong Unison and Society for Cultural Integration to the Panel on Constitutional Affairs on the hearing of the United Nations Committee on the Rights of the Child on the second report of the HKSAR in light of the Convention on the Rights of Child, LC Paper No. CB(2) 268/13-14(07)' (*Legislative Council*, 18 November 2013) <<http://www.legco.gov.hk/yr13-14/chinese/panels/ca/papers/ca1118cb2-268-7-ec.pdf>> accessed 19 September 2015.

⁴⁶ This is based on a comparison of the material used in the teaching of Secondary 6 students at designated schools and those used in the mainstream schools to teach Hong Kong Chinese students.

⁴⁷ Puja Kapai, Deputation, hearing of the United Nations Human Rights the third report of the HKSAR in light of the Covenant on Civil and Political Rights (March 2013) and Puja Kapai, Deputation, hearing of the United Nations Committee on the Rights of the Child on the second report of the HKSAR in light of the Convention on the Rights of Child (September 2013).

⁴⁸ *Ibid.*

⁴⁹ Centre for Civil Society and Governance, the University of Hong Kong and Policy 21 Limited, *Study on Racial Encounters and Discrimination Experienced by South Asians* (Equal Opportunities Commission 2012).

⁵⁰ Hong Kong SAR Government, 'LCQ3: Support to underprivileged children' (*Information Services Department*, 16 October 2013) <<http://www.info.gov.hk/gia/general/201310/16/P201310160344.htm>> accessed 19 September 2015.

⁵¹ Data from Education Bureau obtained by Hong Kong Unison, on file with author.

⁵² Chow (n 27).

⁵³ Ming Pao, '關愛資助考語文反應淡105萬撥款' *Ming Pao* (Hong Kong, 21 July 2013) <http://life.mingpao.com/cfm/dailynews3b.cfm?File=20130721/nalgm/gma1_er.txt> accessed 19 September 2015.

⁵⁴ Hong Kong Christian Service, "Survey on Ethnic Minority Education and Career Support" (2011), Issue No 340 Dec 2011.

⁵⁵ Noam Chomsky, 'Noam Chomsky On Why Kids Learn Languages Easily' (*Forbes*, 24 October 2005) <http://www.forbes.com/2005/10/19/chomsky-noam-language-learning-comm05-cx_de_1024chomsky.html> accessed 19 September 2015.

⁵⁶ Hau (n 12).

⁵⁷ Equal Opportunities Commission (n 13), §11.

⁵⁸ Although in recent years, higher education institutions have been encouraged to accept alternative Chinese language qualifications or passes in a different language for students coming through the JUPAS (Joint University Programmes Admission System), these alternative qualifications hardly seem to be applied since the majority of ethnic minority students applying for university admission continue to be rejected.

⁵⁹ Hong Kong Unison, 'Hong Kong Unison's Submissions on the Second Report of HKSAR on the International Covenant on Economic, Social and Cultural Rights (Part Two) for the Pre-sessional Hearing in May 2013' (*United Nations Human Rights*, May 2013).

<http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/HKG/INT_CESCR_NGO_HKG_14055_E.pdf> accessed 19 September 2015, §1.1.2.

⁶⁰ Hong Kong Council of Social Service (n 2).

⁶¹ Hue and Kennedy (n 4) 10; Ming-Tak Hue and Kerry Kennedy, *Building a connected classroom: Teachers' narratives about managing the cultural diversity of ethnic minority students in Hong Kong secondary schools* (NAPCE 2013); Ming-Tak Hue and Kerry Kennedy, *The challenge of promoting ethnic minority education and cultural diversity in Hong Kong schools: From policy to practice* (Revista Española de Educación Comparada 2014) Challenge of promoting EM Education and Cultural Diversity in HK Schools

⁶² Kerry Kennedy, 'The 'No Loser' principle in Hong Kong's education reform: Does it apply to ethnic minority students?' 11 *Hong Kong Teachers' Centre Journal* 1.

⁶³ Hue and Kennedy, *Building a connected classroom* (n 61).

⁶⁴ Kennedy, Hue and Tsui (n 3).

⁶⁵ Oxfam Hong Kong, 'Survey on the Chinese Learning Challenges South Asian Ethnic Minority Kindergarten Students from Low-Income Families Face' (*Oxfam Hong Kong*, December 2014) <http://www.oxfam.org.hk/filemgr/2639/Oxfam_Surveyon_Dec2.pdf> accessed 19 September 2015, s 4.1.

⁶⁶ These are the anecdotal experiences relayed by ethnic minority parents to the author and to Hong Kong Unison in its case-based advocacy work as well as its service provision in trying to assist ethnic minority children through their afterschool support classes and in bridging gaps between schools and parents.

⁶⁷ Ku, Chan and Sandhu (n 41) 66; Hong Kong Unison, 'Research on Kindergarten Support and Attitude towards Ethnic Minority Students in Hong Kong' (*Hong Kong Unison*, May 2015). <<http://www.unison.org.hk/DocumentDownload/Researches/R201505%20Research%20on%20KG%20support%20and%20attitude.pdf>> accessed 19 September 2015; Hong Kong Unison, Hong Kong Council of Social Service, 'Policy Bulletin: Issue Fifteen, Ethnic Minorities in Hong Kong' (*Hong Kong Council of Social Service*, 30 October 2013) <<http://www.hkcss.org.hk/uploadFileMgmt/pb15.pdf>>.

⁶⁸ Hong Kong Unison (May 2015), *Research on Kindergarten Support and Attitude towards Ethnic Minority Students in Hong Kong* ("Unison Kindergarten Research 2015"), p.8.

⁶⁹ *Ibid*, pp.8-9; Sing Tao Daily (14 May 2015), 幼稚園中文面試少數族裔難入學.

⁷⁰ Equal Opportunities Commission (March 2011), *Education for All: Report on the Working Group on Education for Ethnic Minorities* ("EOC Education Report 2011"), 13.

⁷¹ Kit-Tai Hau (11 November 2008), *Tracking the Adaptation and Development of Non-Chinese Speaking Children (NCS) in Mainstream Schools*, p.1.

⁷² Unison Kindergarten Report 2012, 27-28.

⁷³ Apple Daily (29 December 2014), 缺中文支援 少數族裔童升學受阻.

⁷⁴ Unison EM Research 2005.

⁷⁵ *ibid*.

⁷⁶ EOC Education Report 2011, n 13.

⁷⁷ Li Yao, 'Struggling to understand' *China Daily* (Hong Kong, 8 November 2013) <http://www.chinadailyasia.com/news/2013-11/08/content_15097477_2.html> accessed 19 September 2015.

⁷⁸ Hong Kong Christian Service, 'Over 40% of parents feel difficult for their children to learn languages well in the "Bi-literacy and Tri-lingualism" environment' (translated from Chinese; original: 香港基督教服務處) (*Hong Kong Christian Service*, 26 November 2011) <<http://www.hkcs.org/commu/press/2011press/press20111126.html>> accessed 19 September 2015.

⁷⁹ HKCSS Policy Bulletin 2013, p.18.

⁸⁰ Hong Kong Unison (February 2014), *Summary on Support for Ethnic Minorities in Learning the Chinese Language as Announced in the 2014 Policy Address* ("Unison Summary on 2014 Policy Address"), p.1; EDB Measures 2013.

⁸¹ Education Bureau Policy (27 January 2014), 33.

⁸² Hong Kong Unison (16 January 2014), *Press release: Hong Kong Unison urges the Secretary for Education to clarify in his press conference certain issues about the “Chinese as a Second Language” policy*; Hong Kong Unison (21 February 2014), *Press release: Hong Kong Unison meets with Mr Eddie Ng and Mrs Cherry Tse to discuss details in the implementation of the Chinese language support for ethnic minority students*; Sing Tao Daily (29 July 2013), 校長促設中文第二語言課程.

⁸³ Hong Kong Economic Journal (信報) (14 January 2015), 【施政報告】樂施會：未提少數族裔學前教育支援感失望.

⁸⁴ Website of the Hong Kong Council of Social Service <<http://www.hkcss.org.hk/c/>>

⁸⁵ Hong Kong Unison, ‘Committee on Child Rights Bears Down on Hong Kong Government for Answers on Discrimination in Education for Ethnic Minority Children’ (*Hong Kong Unison*, 27 September 2013) <<https://www.facebook.com/HongKongUnison/photos/a.418223401543792.101934.416316298401169/646717778694352/>> accessed 19 September 2015.

⁸⁶ Education Bureau, ‘Enhanced Chinese Learning and Teaching for non-Chinese Speaking Students’ (2014) Circular No. 8/2013’ (*Education Bureau*, 5 June 2014). <http://www.edb.gov.hk/attachment/en/student-parents/ncs-students/new/CM_2014%2006%2005_E.pdf> accessed 19 September 2015.

⁸⁷ HKCSS Policy Bulletin 2013, p.18; *The Standard* (29 July 2013), *Reform call as students stumble at language bar*. See also, Rizwan Ullah, *A critical review on the provision of Chinese language education for NCSS in Hong Kong* (University of Hong Kong 2012).

⁸⁸ *Headline News* (頭條日報) (29 July 2013), 少數族裔中文「水皮」升學難.

⁸⁹ Hong Kong Unison (n 40), §5.

⁹⁰ Hong Kong Council of Social Service (n 2).

⁹¹ Hong Kong Council of Social Service (n 2).

⁹² Joint Universities Programmes Admissions System <<http://www.jupas.edu.hk/en/application-procedures/application-information/alternative-qualifications-in-chinese-language-acl-for-ncs-applicants-only/>> accessed 23 August 2015.

⁹³ Acceptance of alternative qualification(s) in Chinese Language for admission to undergraduate programmes of the University Grants Committee (UGC)-funded Institutions and undergraduate programmes under the Study Subsidy Scheme for Designated Professions/Sectors. Available on the website of the Education Bureau: Education Bureau, ‘Acceptance of alternative qualifications in Chinese Language for admission to the University Grants Committee (UGC)-funded Institutions and undergraduate programmes under the Study Subsidy Scheme for Designated Professions/Sectors’ (*Education Bureau*) <http://www.edb.gov.hk/attachment/en/student-parents/ncs-students/about-ncs-students/Jupas201415/20140911_ArrangementDetails_ENG.pdf> accessed on 30 June 2015.

⁹⁴ Hong Kong Council of Social Service (n 2).

⁹⁵ Bawm (2008), [6.3].

⁹⁶ Acceptance of alternative qualification(s) in Chinese Language for admission to undergraduate programmes of the University Grants Committee (UGC)-funded Institutions and undergraduate programmes under the Study Subsidy Scheme for Designated Professions/Sectors. Available on the website of the Education Bureau: Education Bureau, ‘Acceptance of alternative qualifications in Chinese Language for admission to the University Grants Committee (UGC)-funded Institutions and undergraduate programmes under the Study Subsidy Scheme for Designated Professions/Sectors’ (*Education Bureau*, 2008) <http://www.edb.gov.hk/attachment/en/student-parents/ncs-students/about-ncs-students/Jupas201415/20140911_ArrangementDetails_ENG.pdf> accessed on 30 June 2015 and note 11, 19-20.

⁹⁷ Hong Kong Unison (n 59).

⁹⁸ S. Fisher, ‘Ethnic Minority Children in Mainstream Primary Schools – A Case of Indirect Discrimination?’ (2011)

⁹⁹ Hong Kong Council of Social Service, ‘解開少數族裔 極窮困之謎 - 教育’ (*Hong Kong Council of Social Service*, 13 January 2014) <http://www.hkcss.org.hk/cont_detail.asp?type_id=3&content_id=1462> accessed 19 September 2015.

¹⁰⁰ Equal Opportunities Commission (n 13), §13.

¹⁰¹ Hong Kong Council of Social Service (n 2).

¹⁰² Education Bureau (August 2013), *Education Support Measures for Non-Chinese Speaking Students (2013/14 School Year)* (“EDB Measures 2013”).

¹⁰³ *South China Morning Post* (21 July 2012), *Relieved Ishaq a major star within a minority*.

¹⁰⁴ Loper (2004), p.7; 東網新聞 (15 July 2015), 職業教育中文為主 少數族裔批礙升學阻求職.

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¹⁰⁶ Equal Opportunities Commission (December 2011), *Education for Ethnic Minorities Children: Meeting of Legislative Council Panel on Education on 12 December 2011 – Submissions from the Equal Opportunities Commission*.

¹⁰⁷ Oxfam Hong Kong, 'Second-language education policies abroad and in Hong Kong' (*Legislative Council*, April 2014) <<http://www.legco.gov.hk/yr13-14/english/panels/ed/papers/ed0414cb4-558-1-e.pdf>> accessed 19 September 2015.

¹⁰⁸ See Table 4.2 above.

¹⁰⁹ See Chapter 4 of this Report.

¹¹⁰ See Chapter 4 of this Report.

¹¹¹ See generally Chapter 5 of this Report.

¹¹² See generally Chapter 7 of this Report.

¹¹³ See Chapter 4 of this Report.

¹¹⁴ South China Morning Post (26 January 2015), *Bilingual classes in Hong Kong public schools suit Chinese and non-Chinese alike*.

¹¹⁵ Kennedy, Hue and Tsui (n 3).

¹¹⁶ Hue and Kennedy, *Building a connected classroom* (n 61); Hue and Kennedy, *The challenge of promoting ethnic minority education* (n 61).

¹¹⁷ Hau (n 12).

¹¹⁸ Liz Jackson, Learning about the other: Cultural Difference and American Education, (2007) *International Journal of Interdisciplinary Social Sciences*, 477-485.

¹¹⁹ *Ibid.*

¹²⁰ Carmichael (n 6).

¹²¹ Legislative Council, *Examination of Estimates of Expenditure 2013-14*, no. EDB150 (Legislative Council 2014).

¹²² *Ibid.* (n10), p.27.

¹²³ *Ibid.* (n9), p.17.

¹²⁴ *Ibid.* (n9), p.15.

¹²⁵ Kennedy (n 62) 6.

¹²⁶ *ibid.*

¹²⁷ Equal Opportunities Commission, "Report on the Working Group on Education for Ethnic Minorities (n 13), §13.

¹²⁸ Carmichael (n 6).

¹²⁹ This section was drafted with the assistance of Victor Lui, a student of the Faculty of Law, The University of Hong Kong.

¹³⁰ *Case of Horváth and Kiss v Hungary* (Application no. 11146/11) (European Court of Human Rights, Chamber Second Section, 29 January 2013).

¹³¹ *Case of Oršuš and Ors v Croatia* (Application no. 15766/03) (European Court of Human Rights, Grand Chamber, 16 March 2010).

¹³² *Case of DH and Ors v The Czech Republic* (Application no. 57325/00) (European Court of Human Rights, Grand Chamber, 13 November 2007).

CHAPTER 4: THE EMPLOYMENT OF ETHNIC MINORITIES**OVERVIEW**

The data pertaining to the employment situation of ethnic minorities depict the following key trends that warrant urgent attention:

- There is a higher rate of participation in the labour force among ethnic minorities compared to the working population of Hong Kong as a whole;
- Certain ethnic groups face particular difficulties in securing employment;
- Ethnic minority youth struggle to find employment;
- Elderly ethnic minorities remain in the workforce until well after the age of retirement;
- There is a lower participation rate in the labour force among female ethnic minorities when compared to their Hong Kong Chinese counterpart; and
- A significant percentage of members of certain ethnic minority groups are concentrated in elementary occupations such as catering, construction work or manual labour jobs, typically earning a lower monthly income compared to the working population as a whole.

These trends reinforce the multi-faceted nature of the obstacles faced by ethnic minorities in seeking equal access to opportunities in education, employment, housing, health and numerous other spheres of life. Without due attention to the causes of the current patterns of employment, ethnic minority communities remain vulnerable to the risk of entrenchment in intergenerational poverty.

Further data collection and research is required to examine these trends to better understand their underlying causes and to inform law and policy with respect to resource allocation so that these inequalities can be effectively addressed.

Many ethnic minorities have expressed the difficulties they face in the process of applying for jobs, with the Chinese language requirement being cited as the most significant impediment to being considered for a position, even for jobs for which such skills may be only marginally necessary. Despite these difficulties, very few ethnic minorities seek employment assistance from the Government or from non-governmental organizations (“NGOs”) for various reasons, including language barriers, the lack of knowledge that such services are available to them and how the services may enhance their job search prospects.

Moreover, for those in employment, practices of differential and unfair treatment towards ethnic minorities are not uncommon. These include, longer working hours, unfair dismissal, greater workload compared to colleagues, lower wages, lack of opportunities for promotion, etc., among other things. These practices are commonplace despite the existence of the Race Discrimination Ordinance (“RDO”), Cap. 602. The RDO provides measures to seek redress for wrongful treatment on grounds of race on the part of employers or potential employers and even protects complainants against victimisation for reason of filing a complaint under the RDO. Nevertheless, given the difficulties experienced by ethnic minorities in securing employment in the first place, inadequate support, the language barrier or lack of requisite levels of proficiency in Chinese, many ethnic minorities choose to tolerate unfair practices and unequal treatment for fear of

losing their jobs or being blacklisted from seeking jobs due to gaining notoriety as a complainant or troublemaker.

To date, only three extensive surveys have collected data on the employment situation of ethnic minorities in Hong Kong. These include:

- A survey entitled, “*A Research Report on the Employment of South Asian Ethnic Minority Groups in Hong Kong*,” conducted by Ku et al., in 2006, published by the Hong Kong Polytechnic University (the “**2006 Survey**”);
- A Caritas study in 2010, entitled, “*Survey on Working Conditions of South Asians in Hong Kong*,” (the “**2010 Survey**”); and
- The 2011 *Thematic Report: Ethnic Minorities*, published by the Statistics and Census Department (the “**2011 Thematic Report**”).

The 2006 Survey consisted of 200 questionnaire surveys covering 4 broad areas - employment situation, employment difficulties, employment assistance and ethnic minorities’ sense of belonging to Hong Kong and 20 in-depth interviews with South Asian ethnic minorities to explore the complex dynamic of employment practices.

For the 2010 Survey, questionnaires were distributed in To Kwa Wan, Tsim Sha Tsui, Central, Jordan and Wan Chai over a five-month period. To prevent domination of interviewees of a certain social class, these venues were specifically selected based on certain considerations in order to maintain the credibility of the findings. A total of 141 questionnaires were completed.

A. LABOUR FORCE PARTICIPATION

In 2011, there were a total of 349,700 ethnic minorities in Hong Kong, constituting 9.9% of the working population. The statistics revealed that a significantly higher proportion of ethnic minorities (65.2%) participated in the labour force compared to the participation rate of the population of Hong Kong as a whole (57.9%).

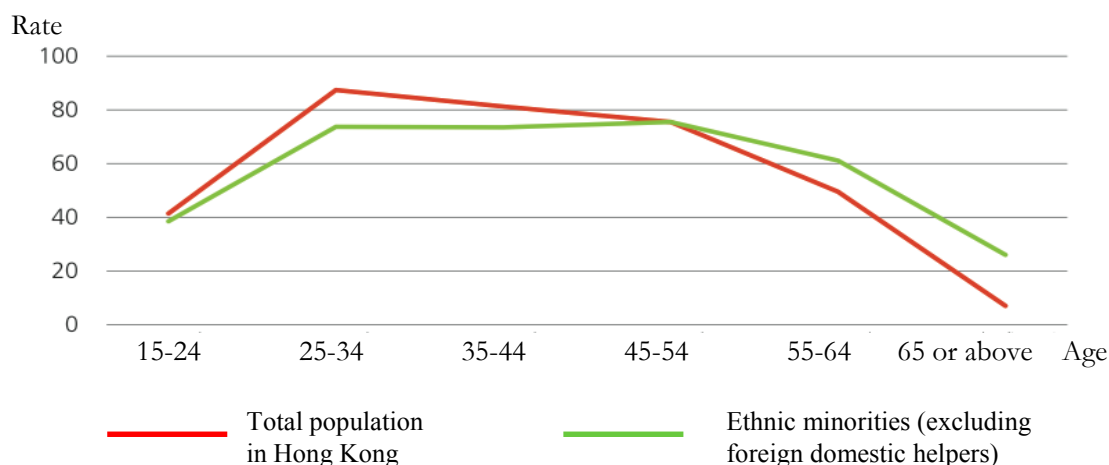
The data in Graph 4.1 below is taken from the 2011 Thematic Report, and provides an overall picture of the labour force participation of ethnic minorities in comparison to that of the general population in Hong Kong:

The breakdown of the statistics by age group reveals that a smaller proportion (73.7%) of ethnic minorities aged 25-34 (excluding foreign domestic helpers) joined the labour force compared to the participation rate (87.4%) of the general population in the same age group.

Table 4.1 Labour Force Participation Rate Among Ethnic Minorities by Age Group in 2011 (excluding foreign domestic helpers)

Group/Age	15-24	25-34	35-44	45-54	55-64	>65
Whole Population	41.4	87.4	81.2	75.5	49.5	7.0
Overall, Excluding FDH	38.5	73.7	73.5	75.5	61.1	26.0

Source: Hong Kong Council of Social Service 2013¹

Graph 4.1 Labour Force Participation Rate Among Ethnic Minorities by Age Group in 2011 (excluding foreign domestic helpers)

Source: Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013)

One might speculate that the lower labour force participation rate is due to a higher proportion of ethnic minorities being in school. Prima facie, the educational attainment, in terms of the highest level attended, of ethnic minorities is higher than that of the whole population. However, as presented in the Key Demographic Data Chapter and Chapter 3 on Education of Ethnic Minorities (of this Report), this figure is skewed by the higher educational attainments of the Japanese, Koreans, and White groups. Except for Indians, the level of educational attainment among South Asians, namely Indonesians, Pakistanis, Thai and Nepalese, is considerably lower compared to the whole population. This means that schooling is not a possible explanation for the lower participation rate of younger South Asian ethnic minorities.

The statistics therefore signify that younger South Asian ethnic minorities struggle with securing employment.

In contrast, ethnic minorities aged 55 and above tend to stay employed even after they have reached the age of retirement. This could be due to a number of factors, including poverty, larger families, difficulties in securing employment later in life if necessitated, and the tendency of ethnic minority households being single-income families. This could also be due to cultural factors that are unaccounted for or as a result of choice. This is particularly worth considering in light of the fact that there are few, if any, provisions for activities or communities for ageing ethnic minority populations to get involved in. In some cases, the figures could be the result of the level of education, experience, language skills or industry-specific patterns.

Table 4.2 Labour force participation rate of ethnic minorities and general population by gender

	Labour force participation rate (%)	
	Ethnic Minorities (Excluding FDH)	Hong Kong General Population
Male	80.1	67.0
Female	49.6	53.4
Overall	65.2	59.7

Source: Source: 2011 Thematic Report, Table 6.3

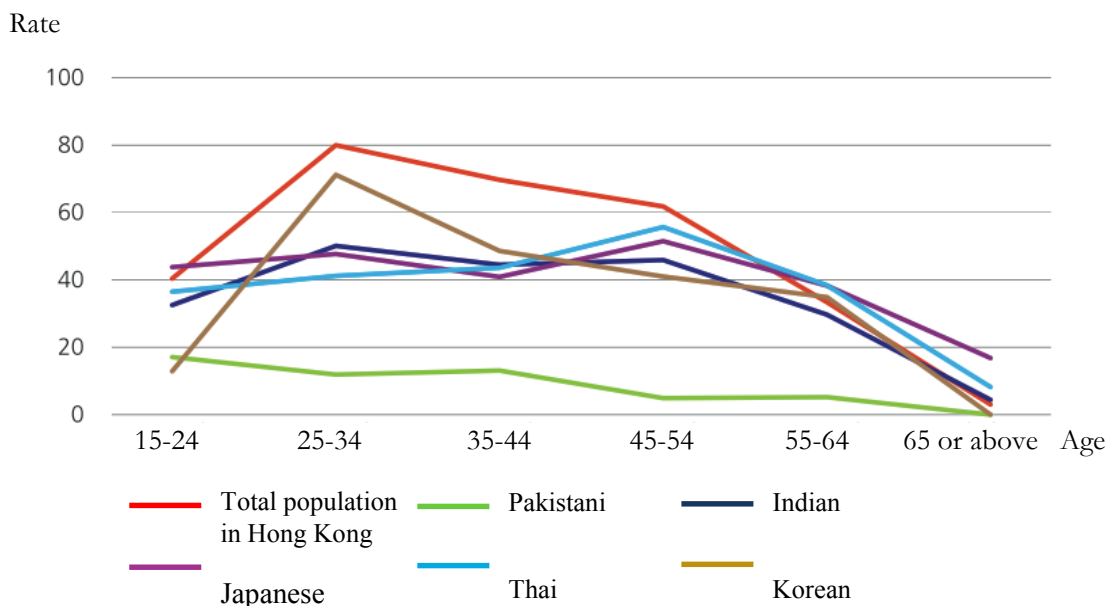
If we look at the distribution by sex, 80.1% of male ethnic minorities (excluding foreign domestic helpers) participate in the work force, which is significantly higher than the 67.0% participation of males in the general population but also considerably higher than the 49.6% labour participation rate of female ethnic minorities (excluding foreign domestic helpers), which is lower than the labour participation rate of the females in general population (53.4%). The difference in rates of participation in the labour force between ethnic minority men and women may be the result of cultural, traditional, religious or educational attainment factors or family responsibilities such as household duties and childbearing and rearing. A further breakdown by ethnicity of this group (excluding foreign domestic helpers) reveals a significantly lower labour force participation rate of Pakistani females.

For males, further breakdown by ethnicity (including foreign domestic helpers) reveals that in the age groups of 25-34 and 35-44, the labour force participation rates of Pakistani (80.6% and 85.2% respectively) and Thai (74.7% and 79.6% respectively) men is considerably lower than that of males in the general population as a whole (92.1%, 92.1%). This suggests that it is more difficult for Pakistani and Thai men within the age bracket of 25-44 years to secure employment than for the general population as a whole.

Therefore, although the overall rate of labour force participation reflects that a high proportion of ethnic minorities are in employment, the breakdown by sex and ethnicity reveals that certain ethnic minority groups face more difficulty in securing employment than the general population as a whole or may be opting not to enter the labour force. Those who are in employment continue to face difficulties in other respects. Many of them are confined to certain types of occupations (See Section B1 below) and earn less than the general population (see Section C below). They also face unfair treatment and setbacks in chances of being promoted to senior levels at work.

Table 4.3 Work Force Participation Rate Among Female Ethnic Minorities by Ethnicity and Age (excluding foreign domestic helpers)²

Ethnicity	15-24	25-34	35-44	45-54	55-64	>65
Whole Population	42.5	84.0	73.2	63.2	34.1	3.0
Pakistani	18.9	11.9	13.1	4.9	5.2	-
Indian	44.1	63.9	53.7	52.8	30.1	4.4
Japanese	43.8	47.7	40.9	51.5	38.3	16.8
Thai	45.1	57.1	62.3	67.6	49.4	16.8
Korean	12.9	72.2	48.6	41.0	34.9	-
Overall, Excluding FDH	37.4	56.8	55.1	57.7	38.6	7.8

Graph 4.2 Work Force Participation Rate Among Female Ethnic Minorities by Ethnicity and Age (excluding foreign domestic helpers)³

Source: Hong Kong Council of Social Service, "Ethnic Minorities in Hong Kong" (2013)

B. TYPES OF OCCUPATION

B1. Elementary Occupations

Key Finding: A majority (75.8%) of the working ethnic minorities are engaged in "elementary occupations" – i.e. occupations that do not require special skills compared with 19.5% of the general population as a whole engaged in elementary occupations.

The other categories of occupation covered by the Thematic Report were Managers and Administrators, Professionals, Associate Professionals, Clerical Support Staff, Service and Sale Workers, Craft and Related Workers (including construction workers, carpenters, food and beverage processors, jewellery and watch makers, craft workers in garments and textiles), Plant and Machine Operators and Assemblers, and Skilled Agricultural and Fisheries workers (including farm and animal husbandry).⁴

Japanese, Koreans, Thais and Indians represented the largest numbers among those who were Managers and Administrators (significantly higher than the 10.1% of the whole population).⁵

Filipinos, Thais, Nepalese and Koreans were among those with the largest share of those engaged as Professionals (considerably higher than the 26.1% of the whole population).⁶

Pakistanis were most highly represented in the clerical workers and service and sales and elementary categories.⁷

A breakdown by ethnicity shows the percentage of select South Asian population groups engaged in such work:

An overwhelming proportion of female working Indonesians (99.6%) and Filipinos (96.9%) were engaged in elementary occupations, most of whom are accounted for as part of the foreign domestic helper population. While a substantial proportion of female working Indians (42.9%), Nepalese (46.6%) and Thais (67.5%) were also engaged in elementary occupations, only 14.9% of female working Pakistanis were engaged in the same. In fact, 42.6% of female working Pakistanis were professionals/ associate professionals. Reading this statistic together with Graph 4.2 which shows that Pakistani women remain the most under represented group in the labour force suggests that the figures may be skewed because they apply to a very small number of this group of women engaged in the labour force.

Table 4.4 Percentage of population engaged in elementary occupations by ethnicity and gender in 2011 (including FDH)

Population Engaged in Elementary Occupations by Ethnicity and Gender in 2011			
Ethnicity	Total (%)	Female (%)	Male (%)
Indonesian	99.3	99.6	42.7
Filipino	94.4	96.9	35.9
Thai	61.5	67.5	12.7
Nepalese	42.3	46.6	39.3
Pakistani	36.0	14.9	38.4
Indian	19.4	42.9	5.7
White	2.2	4.0	1.5
Japanese	0.9	1.8	0.5
Korean	1.1	2.5	n/a
Ethnic Minorities as a Whole	75.8	89.9	12.9
Ethnic Minorities as a Whole (excluding FDH)	11.9	17.3	8.8
General Population as a Whole	19.5	27.1	12.3

Source: 2011 Thematic Report, Table 6.3

There are two possible explanations: that they do not find work for cultural, traditional, religious reasons or reasons of family responsibilities, including housework and childbearing and child rearing duties that lie on them to a greater extent than their spouses; alternatively, those who are not constrained by these factors do work or have no choice but to work but corresponding with their lower educational attainment levels, they are confined to the elementary populations or they have high educational attainment levels and strive for roles in the Professional or Associate Professional categories when they do enter the labour force.

These figures have not been adjusted to isolate the large number of foreign domestic helpers. The 2011 Thematic Report provided for a figure of 11.9% as reflective of the proportion of ethnic minorities engaged in elementary occupations after excluding

foreign domestic helpers. However, this figure is an average calculated with reference to all the different ethnicities. The 2011 Thematic Report does not provide a breakdown of the figures by ethnicity.⁸

To isolate the effect of including foreign domestic helpers (who are predominantly female) within this set of figures, we can consider the figures in relation to male working ethnic minorities. For working males, 12.3% of the whole population were engaged in elementary occupations, whilst 42.7% of Indonesian, 35.9% of Filipino, 5.7% of Indian, 38.4% of Pakistani, 39.3% of Nepalese and 12.7% of Thai men engaged in the same respectively. As we can see, except working male Thai and Indian, a relatively high proportion of South Asian working males were engaged in elementary occupations when compared to the working population of males as a whole in Hong Kong.⁹

The 2006 Survey shows that around one third of the 200 respondents engaged in elementary occupations; around 30% as service workers and shop sales workers; around 13% as clerks; 19% as managers and administrators, professionals and associate professionals and 3% as plant and machine operators and assemblers.

However, a lower educational qualification was not necessarily the reason behind the engagement of ethnic minorities in elementary occupations. Some of them were actually very well educated. For instance, one Nepalese holding an MBBS had to work as a receptionist at a clinic.¹⁰ In another case, an Indian university lecturer was only able to find a job at a foreign currency exchange shop.¹¹ There are many such examples.

B2. Civil Service

Many ethnic minority youths aspire to serve Hong Kong as civil servants but have been unable to fulfil these dreams due to the inherent limitations in the education system that fail to equip them to master Chinese effectively.¹²

At present, most job openings for civil servants require proficiency in the Chinese language, making it extremely difficult, if not impossible for ethnic minority applicants to compete for these jobs. As stated on the official website of the Civil Service Bureau, the Hong Kong Government has an “established policy to maintain a biliterate (Chinese and English) and trilingual (Cantonese, Putonghua and English) Civil Service in order to meet the long-term operational and development needs.”¹³

Whilst it is appreciated that certain civil service posts might genuinely require Chinese reading and writing capabilities, the blanket condition may be unwarranted for other posts, such as drivers and other manual work. However, that these are the only posts possibly exempted from the language requirement is itself problematic because it confines ethnic minorities wanting to join the civil service to merely manual or low ranking civil service positions as opposed to substantive positions despite their other educational qualifications on account of their lack of proficiency in reading and writing Chinese. To insist on the same Chinese requirement for all civil service posts regardless of the actual occupational requirement is unreasonable and undermines the possibilities of attracting talented and diverse individuals to be a part of the civil service.

Taking into account the failure of the education system to equip ethnic minorities with Chinese language skills of a level high enough to enable them to compete meaningfully with their Chinese counterparts, an approach incorporating the principles of substantive equality would require an adjustment to the entrance, promotion and assessment measures to account for the inevitable differences in language proficiency. This is in line with the observation of the United Nations Human Rights Committee, which

emphasised the importance of reassessing the Chinese proficiency requirement for each post in the civil service in Hong Kong.¹⁴

Despite being pressed on more than one occasion, the Government still refuses to provide a racial profile of the whole civil service and claims that “it does not have the ethnicity data of the whole civil service because race is not a relevant consideration in the appointment and the promotion of civil servants.”¹⁵ However, to ensure that ethnic minorities are not underrepresented due to discriminatory or unfair policies, whether in operation directly or indirectly, there is a compelling need for the Government to produce such data to allow for an evidence-based assessment of possible reasons that might explain the paucity of numbers in ethnic minority members of the civil service.

The civil service remains a sector in which ethnic minorities are grossly underrepresented. In 2011, a voluntary and anonymous survey on the racial profile of the Civil Service was carried out by the Civil Service Bureau, in which a total of 26,671 civil servants were surveyed (representing 17% of the 156,781 civil servants as of 31 March 2011).¹⁶ The results showed that ethnic minorities accounted for a mere 0.8% (225 respondents), with the largest five groups being White, Indian, Mixed, Pakistani, and Bangladeshi (in descending order).

Table 4.5 Number of ethnic minority respondents to the survey by ethnicity

Ethnicity	Number of Respondents
White	82
Indian	41
Mixed	30
Pakistani	18
Bangladeshi	15

Taking into consideration that “White” does not fall within the term “ethnic minorities” in the context of this report, the actual number for the purpose of this report would be even lower.¹⁷ The 225 respondents were serving in 33 bureaux or departments, including *inter alia*, the Hong Kong Police Force, the Correctional Services Department, the Department of Justice and the Food and Environmental Hygiene Department.¹⁸

The Police Force and the Correctional Service Departments were amongst the first to review their recruitment policies, relaxing the requirement on Chinese language in appropriate cases.¹⁹ The Hong Kong Police Force has sought to diversify the racial profile of its officers. For instance, since 2010, the Yuen Long Police Station has started employing ethnic minority youths as Liaison Officers to serve as a bridge to their communities. It is also encouraging to see that the Police Force has extended the scheme to hire ethnic minorities as liaison assistants from 5 police districts to 14 police districts.²⁰ In 2012, 16 people from the Indian, Pakistani, Nepalese and African communities were hired as cultural advisors to help spread anti-crime messages and help ethnic minorities integrate into the community.²¹ In the same year, Hong Kong saw the historic appointment of its first South Asian female police constable since the handover, Ms. Heina Rizwan Mohammed, a Hong Kong-born Pakistani woman. Fermi Wong Wai-fun, Founder and

former Executive Director of Hong Kong Unison noted this as a “symbolic first step,”²² particularly in light of the fact that the Pakistani population in Hong Kong has increased by 62.4% between 2007 and 2011.²³

However, we have yet to see the same approach being taken in other public bodies and departments, such as public hospitals, clinics and maternal and child healthcare centres, family services centres of the Social Welfare Department and job centres of the Labour Department. As Hong Kong Unison has urged, “these public bodies and branches of department particularly need staff members who understand the cultures and languages of ethnic minorities. The presence of ethnic minority staff will also enhance visibility of ethnic minorities in the public sphere.”²⁴

This is explored in greater detail in Chapter 2 on Language, Identity, Integration and Belonging of this Report, which looks at issues arising out of language barriers faced by ethnic minorities.

In order to diversify the cultural background of the civil service workforce, the EOC had asked the government to employ more ethnic minorities to set an example for other employers in Hong Kong. The EOC noted that the Government had taken the following steps to promote a multi-cultural civil service workforce²⁵:-

- Reviewing the language proficiency requirements (LPRs);
- Accepting non-local public examination results;
- Adjusting the recruitment process;
- Implementing employment initiatives specific to ethnic minorities.

Increasing the chances of ethnic minorities being hired in civil service is not only a matter of guaranteeing equal opportunities in employment; it is also a necessary measure to reduce the language and cultural gaps that present obstacles to the enjoyment of access to various rights and opportunities in society.

B3. Entrepreneurship

The EOC recently announced results of two funded research projects that it funded, namely “Empowerment through Business: Social Asian Entrepreneurship in Hong Kong”²⁶ and “Breaking through the barriers- Ethnic minority success stories and their implications for policy intervention in Hong Kong”²⁷. The first project interviewed 22 ethnic minority entrepreneurs of Pakistani and Nepalese origin in 2014, while the second project interviewed 9 South/ Southeast Asians on their successful stories of integrating into the local community.

Research results revealed that the performance of ethnic minority entrepreneurs is divergent, as successful, stable, and survival businesses were identified in the research²⁸. Analysis shows that key factors to success include²⁹:-

- Personal attributes such as being perseverant, knowing and focusing on the goal, refreshing oneself with progression continuously, knowing one’s capacity, being strategic in choice-making;
- Social networks assisted in disseminating job-opening information, for instance, through referrals by friends

Ethnic minority entrepreneurs often had limited recourse to formal sources of financing such as bank loans. Since ethnic minorities believed that banks will not even allow them to open bank accounts, such perceived discrimination deterred them from attempting to obtain bank loans.³⁰ Instead of obtaining bank loans, they usually borrow from family or friends due to the bank's requirements for official documents they may be unable to provide (for example, proof of address in country of origin) and perceived racial discrimination.³¹ Also, some Pakistani Muslims consider it inappropriate to borrow from financial institutions.³² In contrast, strong intra-ethnic mutual support in terms of family and friends and informal financial network means easier recourse to funding via the ethnic minority community.³³ Further, the less individual class assets one has (personal cultural capital and bridging social capital), the more dependence one has on ethno-group resources.³⁴

Since ethnic minority businesses are concentrated in a small geographical area, competition is keen. As such, business owners are forced to tolerate late payments by customers in order to retain customers and to avoid bad-mouthing by their co-ethnic fellows.³⁵ Further, interviewees expressed difficulties in hiring Chinese workers because of discrimination and communication barriers. This has undermined their ability to attract more Chinese customers.³⁶ This potentially threatens the viability of such businesses if their product targets the general market rather than the ethnic minority population, for example.

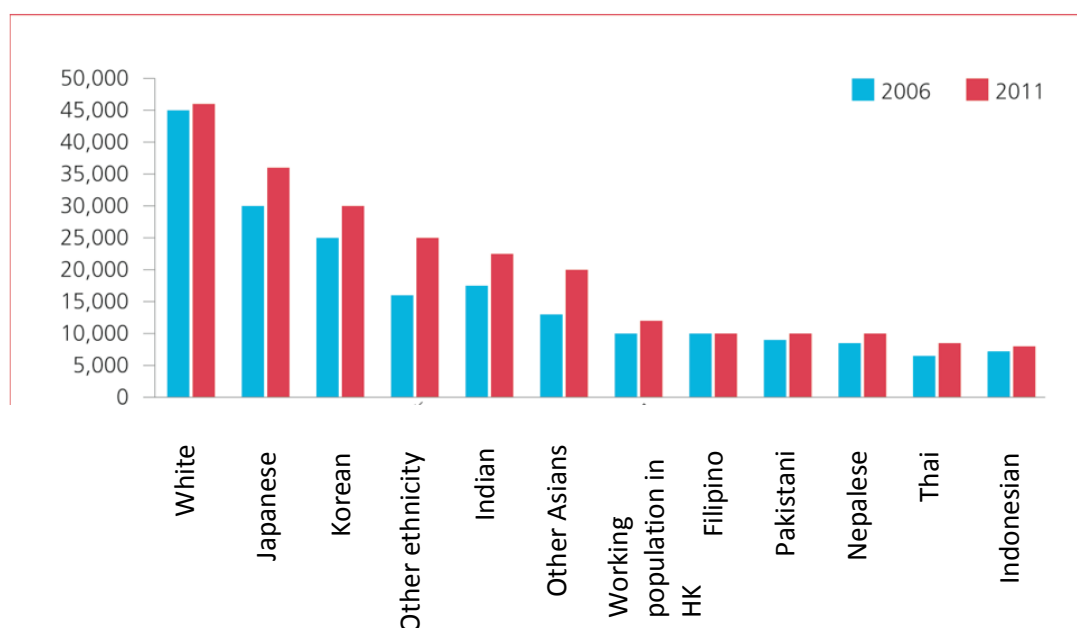
While the ethnic economy empowers ethnic minorities on both the community (by creating networking and bonding space amongst ethnic minorities and enhancing local tourism and social projects) and individual level (by enhancing social status and job opportunity), it is at the same time disempowering in terms of failing to overcome structural barriers, such as the language barrier.³⁷ For instance, 30-year old Khan Khalid, born and raised in Hong Kong, faces enormous difficulties in handling Chinese documentation and hence he could only focus on foreign business.³⁸ He believes that Chinese language education should be made compulsory for ethnic minority students.³⁹

Dr. Ferrick Chu, the Head of Policy, Research and Training Division of the EOC recommended stepping up measures to support petit entrepreneurship of ethnic minorities, particularly in terms of formal sources of financing, and business advice, support and training, and suggested that ethnic minorities could offer valuable resources of local and international tourism in the form of cultural tours.⁴⁰ In particular, the government should act as facilitators to assist ethnic minorities in realizing their entrepreneurial dreams.⁴¹

C. INCOME

In general, from 2006 to 2011, the median monthly income of different ethnic minorities increased. The graph below shows the median monthly income amongst different ethnic minority groups in 2006 and 2011.

In 2011, apart from Indians, the majority of South Asian ethnic minorities (excluding FDH) earned a lower monthly income when compared to the median monthly income of the whole working population.

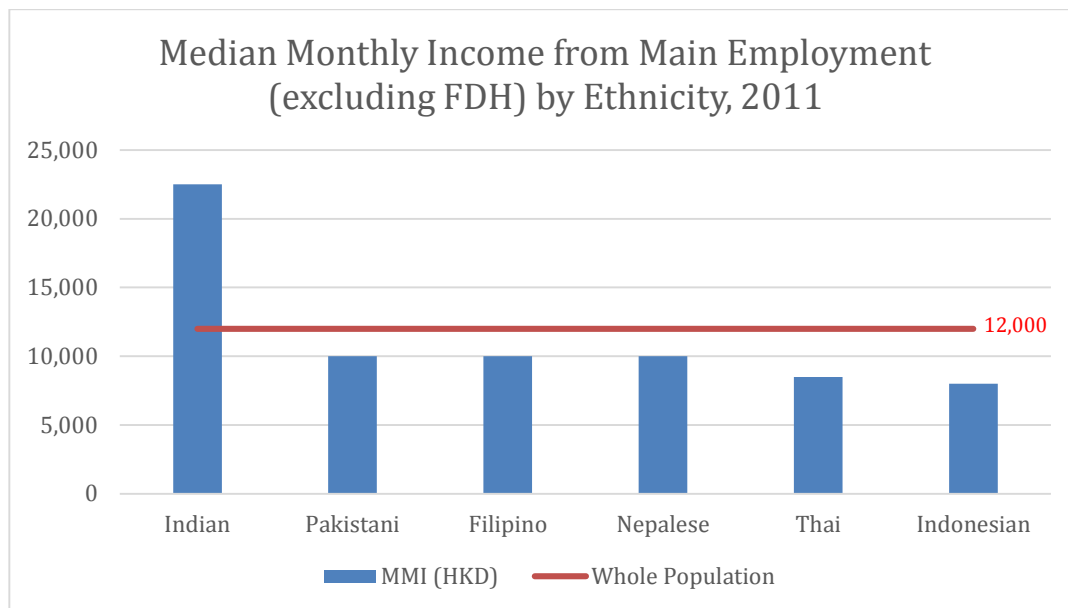
Graph 4.3 Median Monthly Income Disaggregated by Ethnicity in 2006 and 2011¹²

Source: Hong Kong Council of Social Service, 2013

Table 4.6 Median monthly income from main employment (excluding FDH) by ethnicity, 2011

Ethnicity	Median Monthly Income in HK\$
Indian	22,500
Working Population as a Whole	12,000
Pakistani	10,000
Filipino	10,000
Nepalese	10,000
Thai	8,500
Indonesian	8,000

Source: Census and Statistics Department, Thematic Report 2011

Graph 4.4 Median Monthly Income from Main Employment (excluding FDH) by Ethnicity, 2011

Source: 2011 Thematic Report, Table 6.5

The lower income earned by South Asian individuals compared to the Hong Kong Chinese working population is likely attributable to a substantial proportion of them being engaged in elementary occupations (as elaborated in section B1 above). For the same reasons, since Japanese, Koreans, Whites and Indians tend to be in Managerial and Administrative positions, employers or self-employed (7.9%, almost double the rate compared to the whole population), they seem to be earning well.⁴³ However, this does not correspond with the high rates of representation among Professionals of groups such as Thais, Nepalese and Filipinos.

In addition, although the minimum wage law was enacted in Hong Kong in 2010, findings from interviews with 238 South Asian workers revealed that 25% of respondents were underpaid, with approximately 20% of them not earning more than HK\$6,000 a month.⁴⁴

One particular respondent said he worked 24 hours a day as he was not allowed to leave his place of employment during his on-duty days and yet, he was only paid for 12 hours a day.

Staff of the Holy Cross Centre, who conducted the research study, expressed that language barriers made South Asian workers more susceptible to exploitation and the deprivation of their labour rights. They urged the Government to establish a body to examine and address the needs of ethnic minorities.

Table 4.7 Labour Force Participation Rate for Persons Aged 65 and Above by Ethnicity

Ethnicity	Labour Force Participation Rate for Persons Aged 65 and Above
Indonesian (includes foreign domestic helpers)	9.6%
Filipino (includes foreign domestic helpers)	38.1%
Indian	24.8%
Pakistani	33.0%
Nepalese	45.2%
Asians Overall	29.3%
White	30.8%
Thai	18.7%
Mixed	13.7%
Ethnic Minorities Overall (including foreign domestic helpers)	27.6%
Ethnic Minorities Overall (excluding foreign domestic helpers)	26.0%
Whole Population	7.0%

Source: 2011 Hong Kong Population Census Thematic Report: Ethnic Minorities, Table 6.1

Table 4.7 above shows that the majority of the elderly ethnic minority population over the age of 65 continues to work. The highest rates of continued employment in this age group is found among the Nepalese at 45.2% followed by Pakistanis at 33%. 26% of the ethnic minority population over the age of 65 continues to work, compared with 7% of the comparable group in the whole population. That amounts to a difference of nearly four times as much. The question arises, why is this so?

D. DIFFICULTIES ENCOUNTERED IN SEEKING EMPLOYMENT

D1. General Difficulties

The 2006 Survey reveals that 39% of the respondents experienced some form of unemployment in the last two years whilst 59% of them felt that it was difficult or very difficult to seek employment in Hong Kong. 50% felt that they had fewer prospects of being employed compared to their Hong Kong Chinese counterparts. 75% of the respondents attributed their difficulties in seeking employment to not knowing Cantonese / Mandarin, while 37% of them attributed it to not being Chinese, reflecting impressions of perceived racism in the employment market.

Other reported difficulties included:

- Job advertisements written mostly in Chinese;
- Qualifications from home country not being recognized in Hong Kong;
- Low education qualifications impacting competitiveness with other applicants;
- Lack of network or assistance for introduction to available jobs;
- Cultural and/or religious differences;
- Lack of requisite skills;
- Steep fees charged by job referral agencies;

- Lack of English language skills;
- Age discrimination;
- Immigration status and policies affecting them, i.e. conditions of stay, etc.

Among the 190 respondents who reported their means of getting their current or last job, 71.6% of them obtained the job by receiving help from family members, relatives and/or friends, and only 19.5% obtained the job by reading the advertisements on newspapers, magazines or the internet.

In the 2010 Survey, 70% of the respondents reported that it was difficult for South Asians to find a job and 34% of them cited the language barrier as the main reason, noting in particular, that the requirement of both, reading and writing skills in Chinese, worsened the problem. Even among those respondents who had lived in Hong Kong for more than 10 years, 31% still found the language barrier to be the greatest obstacle when seeking employment. Also, 20% regarded racial discrimination as the reason for difficulties encountered in securing a job. The 2011 Thematic Report provides the following overview of the percentage of Cantonese-speaking persons over the age of 5, disaggregated by ethnicity:

Table 4.8 Proportion of ethnic minorities aged 5+ able to speak Cantonese

Ethnicity	Percentage
Chinese	98.8
Thai	91.1
Indonesian	85.6
Pakistani	59.8
Nepalese	48.0
Indian	35.3
Filipino	24.8
Ethnic minorities (total)	51.8

Source: 2011 Thematic Report, Table 4.5

These findings are not inconsistent with the 2006 and 2010 Surveys because there is still a substantial proportion of South Asians who cannot speak Cantonese. Moreover, for those who speak Cantonese, they may not be as fluent as their Hong Kong Chinese counterparts. Further, the 2011 Thematic Report does not provide data on the number of ethnic minorities who can read and write in Chinese, which is a significant skill and overwhelmingly impacts competitiveness in the employment market.

Many speak Chinese well – very fluent but still no job because of no reading and writing. Is Chinese a genuine occupational requirement? If yes, 30% saying they can't read or write it – highlights a problem with an education issue. Second, the large percentage who can't speak, points to a failing and discrimination and lack of integration.

D2. Employment Assistance

The 2006 Survey also looked at the readiness of ethnic minorities to seek employment assistance. 34.5% of the respondents tried to seek help from the Job Centre of the Labour Department. The majority of those who did not seek help (58.8%) thought there was no need to do so, while 26.7% of them did not know about Job Centre. Further, 18.3% of

them considered that the services were not useful and 12.2% of them did not seek help as services were only provided in Chinese.

Table 4.9 Percentage of those who ever sought help from the Job Centre of the Labour Department

	Frequency	Percentage
Yes	69	34.5
No	131	65.5

Table 4.10 Reason for not seeking help from the Job Centre

	Frequency	Percentage
No need	77	58.8
Don't know there is such a centre	35	26.7
No time	25	19.1
The services are not useful	24	18.3
Services are provided in Chinese	16	12.2

Among those who did seek help, slightly more than half of them reported that the services were not useful. Reported difficulties they encountered include:

- (i) staff not being able to find a job for them;
- (ii) services being provided in Chinese and
- (iii) staff not being able to understand their needs, not helpful or even having discriminatory attitudes towards them.

It is pertinent to note here that, language barriers, the very factor that often impedes access to the employment market is also a barrier to seeking employment assistance. Moreover, given the higher rate of unemployment among the economically productive category of ethnic minorities (aged 25-44) compared to their Hong Kong Chinese counterparts for this age group engaged in employment, the fact that more than half who turned to such services and did not find them useful, exacerbates the very problem of equal access to employment opportunities for ethnic minorities.

The 2010 Survey showed similar results: only about 20% of the respondents had sought occupational assistance from the Government or other non-governmental organizations ("NGOs"). Reasons for not seeking help included:

- (i) they did not face difficulties or preferred to deal with difficulties on their own;
- (ii) they did not know about the occupational assistance schemes available through the Government or NGOs;
- (iii) they did not know where and who to seek help from;
- (iv) language barriers; and
- (v) they did not think the Government or NGOs could help them solve problems effectively.

Between 2010 and 2012, there were on average 1,000 able-bodied ethnic minorities each year who sought assistance from the Labour Department. Table 4.11 below shows the number of able-bodied job seekers at the Labour Department disaggregated by ethnicity.

Table 4.11 Number of Able-bodied Job Seekers at the Labour Department Disaggregated by Ethnicity

Ethnicity	No. of Job Seekers		
	2010	2011	2012
Pakistani	284	220	245
Indian	285	160	185
Filipino	170	178	158
Nepalese	146	84	98
Indonesian	109	78	69
Thai	59	66	67
Other ethnicity	181	115	159
Total	1234	901	981

Source: Press Release LCQ18: Employment Services for ethnic minorities⁴⁵

The actual success rate of the services provided by the Labour Department is unknown. The Labour Department explained that, able-bodied jobseekers might be placed into employment either through the referral services of the Labour Department or by direct application to employers who advertise their vacancies through the Labour Department. Over 90% of the vacancies advertised through the Labour Department were open for direct application by jobseekers in both English and Chinese. Also, in light of the fact that those who secured employment through direct application were not required to report their placement, the Labour Department was only able to release data relating to placements secured through the referral services.

Table 4.12 below shows the number of successful placements made through the referral services disaggregated by ethnicity.

Table 4.12 Number of Successful Placements Made Through Referral Services Disaggregated by Ethnicity

Ethnicity	No. of Placements		
	2010	2011	2012
Pakistani	21	11	8
Indian	11	10	4
Filipino	23	12	18
Nepalese	6	4	1
Indonesian	12	13	14
Thai	13	14	8
Other ethnicity	19	8	8
Total	105	72	61

Source: Press Release LCQ18: Employment Services for ethnic minorities⁴⁶

As for ethnic minority job seekers with disabilities, they would be registered with the Selective Placement Division (SPD) of the Labour Department. In 2010, 2011 and 2012,

there were a total of 24, 22 and 16 such jobseekers respectively who sought the assistance of the SPD at the Labour Department. Among them, 4, 11 and 9 successfully sought placements through the employment services of the SPD in the 3 years respectively.

Due to the incomplete data sets, it is difficult to draw conclusions about the actual effectiveness of the services provided by the Labour Department and the extent to which they have successfully assisted ethnic minorities in securing employment. However, respondents stated that these services had not been adequately publicised and made readily accessible to ethnic minorities, which explains the low rates of help-seeking in this regard.

D3. Retraining Services

The 2006 Survey reports that two thirds of the respondents did not join any courses in order to increase their competitiveness in the job market. More than 75% of them reported difficulties in using retraining services in Hong Kong. Reported difficulties included:

- (i) not knowing about the courses;
- (ii) courses being conducted in Chinese;
- (iii) not being able to find suitable courses;
- (iv) schedule of the courses not suitable;
- (v) fees too expensive;
- (vi) not meeting the entrance requirement of the courses;
- (vii) qualification of the courses not useful/ not being recognized.
- (viii) qualification of the courses not useful/ not being recognized.

A survey conducted in 2003 by Hong Kong Unison and City University of Hong Kong reveals specific attendance rates of the eight types retraining courses available in Hong Kong amongst ethnic minorities based on a pool of 402 respondents.⁴⁷ The survey shows that, with the exception of construction-related courses, the participation rate of ethnic minorities in these retraining courses was extremely low. For instance, only about 10% had taken courses run by the Vocational Training Council, 5.5% attended courses run by Youth Pre-employment Training Programme, and less than 5% attended courses run by the Hong Kong Institute of Vocational Education (IVE), the Youth Work Experience and Training Scheme, the Clothing Industry Training Authority, the Project Yi Jin and the Employment Retraining Board. On the other hand, whilst 70% of the respondents attended courses run by the Construction Industry Training Authority, this was probably a result of the legal requirement imposed on persons working on construction sites and cannot be meaningfully compared with the figures for the other seven types of courses. It has, however, been anecdotally noted at the Ethnic Minorities Forum run by the Constitutional and Mainland Affairs Bureau, that such courses are routinely undersubscribed. This calls for a rethink of the structuring of the courses in terms of numbers and to direct resources be allocated to run some of the courses with a lower subscription rate.

E. DIFFICULTIES ENCOUNTERED IN THE WORKPLACE

According to the 2006 Survey, almost 75% of the respondents reported that they faced difficulties of different kinds at work. These include:

- communication problems with supervisors, bosses and/or colleagues;
- not receiving salary on time;
- being bullied by supervisors/ colleagues;
- having conflicts involving cultural or religious practices;
- being unreasonably fired for being an ethnic minority;
- experiencing unequal treatment at work;
- being asked to undertake a heavier workload, etc.

Amongst the problems reported by the respondents, communication problem was the most common and was experienced by over a third of the respondents. Close to a third of them indicated that they could not receive salary on time, although it was not known whether it was a result of any unfair treatment where their Hong Kong Chinese counterparts were paid on time. One out of five respondents felt bullied, which included instances of supervisors or colleagues laughing at, making fun of, humiliating or insulting them. One significant source of conflict was cultural or religious practices, which led about 15% of the respondents into disagreement or argument with their supervisors or colleagues. About 13% of the respondents believed that they were unreasonably fired because of their ethnicity. Last but not least, some respondents stated they were treated unequally at work generally. For example, they cited that they have a heavier workload than their peers.

When asked to compare the treatment they received at work with that of their Hong Kong Chinese counterparts, 42% of the respondents were of the view that they had less chances for promotion opportunities; 25% stated that they had a heavier workload and 24% reported that they had higher chances of being laid off.

KEY OBSERVATIONS

The Chinese language barrier has been cited by many ethnic minorities as an impediment to finding work in Hong Kong. Difficulties might include job adverts in Chinese, qualifications from other countries not being recognized, lack of network for introductions, or cultural and religious differences. Even where they are able to find employment, they are frequently held to different standards and made to work harder or for longer hours than their Hong Kong Chinese peers.

A smaller proportion of ethnic minorities joined the labour force compared to the general population of their peers. Interestingly, however, ethnic minorities aged 55 and above tend to stay employed even after they have reached the age of retirement.

Generally, the statistics suggest that it is more difficult for Pakistani and Thai men within the age bracket of 25-44 years to secure employment than for the general population as a whole. Almost 4 times as many working ethnic minorities are engaged in “elementary occupations” as the figures for the general population and an overwhelming proportion of female working Indonesians (99.6%) and Filipinos (96.9%) were engaged in elementary occupations, most of whom are accounted for as part of the foreign domestic helper population.

Working within the civil service is extremely difficult for ethnic minorities, as proficiency in Chinese is a prerequisite. Whilst it is true that the education system in Hong Kong does not effectively teach ethnic minority students the requisite level of proficiency in Chinese, the imposition of this blanket condition for civil service work may be unwarranted for many posts, such as drivers and other manual work. As a result, the civil service remains a sector in which ethnic minorities are grossly underrepresented.

Ethnic minority entrepreneurs often have limited recourse to formal sources of financing such as bank loans and, as many believe that banks will not even allow them to open bank accounts, they are deterred from attempting to obtain bank loans. For those wishing to find employment, around 1 in 4 were not aware of the existence of the Job Centre. Language once again is a key obstacle to access to this kind of assistance.

Around 75% of ethnic minorities surveyed reported difficulties with retraining services, including expenses of fees, not meeting the entry requirements, the language of instruction and inability to find suitable courses. Participation in such courses is therefore very low. Even where retraining courses were advertised as being available in English, there were reportedly conducted with Chinese as the medium of instruction.

Finally, women from specific ethnic groups are clearly underrepresented. The absence of Pakistani women from the workforce is very noticeable. The cause of this needs to be better understood to determine whether this is a gender, cultural or religious issue or one of systemic discrimination.

Overall, if the Hong Kong system is resulting in over 75% who are only able to enter elementary occupations, this is a key issue that needs to be tackled; clearly the education system is failing them in many ways as is the mechanics of entering the labour force on an equal footing.

RECOMMENDATIONS

1. The Government should encourage more departments to review the LPRs in relation to more ranks of civil service positions to take the lead to set an example of establishing a multicultural workforce⁴⁸;
2. Training and advancement support specifically for ethnic minorities should be strengthened to give them an equal chance in the promotion process⁴⁹;
3. Better education system and multiple pathways to assist with Chinese language learning through courses for basic Chinese offered to ethnic minority communities in different settings.
4. Enhance mentorship, outreach and publicity for job centres and other employment assistance in order to facilitate better job opportunities for the ethnic minority community.
5. In order to increase ethnic minorities' access to public services, the government should take steps to help its civil service workforce develop multilingual abilities⁵⁰ and cultural competence;
6. The government should document in detail and update regularly the data on ethnic minorities in the civil service workforce to keep track of the progress of developing a multicultural workforce and identify areas for improvements⁵¹;
7. Improve ethnic minorities' access to formal sources of finance, by reducing formal requirements for obtaining bank loans, tailoring loan schemes to cater for needs of ethnic minorities, and incorporating ethnic minorities into the existing funding schemes such as the SME Funding Scheme⁵²;
8. Improve ethnic minorities' access to business advice and support services, for example, by setting up a specific support team for ethnic minorities in existing service providers like the Support and Consultation Centre for SMEs⁵³;
9. Provide community-based training for ethnic minorities to enhance their entrepreneurial and language skills;⁵⁴
10. Promote ethnic minority neighbourhoods as potential sources of local and international tourism⁵⁵
11. Ethnic minority women need focused outreach by the government. The standards of teaching, the structural cultural, patriarchal issues that have a gendered impact on their educational and employment experiences need to be better understood so that their poor employment prospects can be tackled.

¹ Hong Kong Council of Social Service, 'Policy Bulletin: Issue Fifteen, Ethnic Minorities in Hong Kong' (*Hong Kong Council of Social Service*, 30 October 2013).

² (n 1).

³ (n 1).

⁴ Census and Statistics Department, *Population Census Thematic Report: Ethnic Minorities*. Hong Kong: Hong Kong SAR Government (2012), p.136-137.

⁵ Census and Statistics Department, *Population Census Thematic Report: Ethnic Minorities*. Hong Kong: Hong Kong SAR Government (2012), p.75 Table 6.3.

⁶ *ibid* 75, Table 6.3

⁷ *ibid*.

⁸ *ibid*.

⁹ *ibid*.

¹⁰ H B Ku, K W Chan and K K Sandhu, 'A Research Report on the Employment of South Asian Ethnic Minority Groups in Hong Kong' (Hong Kong Polytechnic University 2006) (the "2006 Survey").

¹¹ *ibid*.

¹² Hong Kong Unison, 'Submissions to the Legislative Council Panel on Public Service on the Employment of Ethnic Minorities in the Civil Service, LC Paper No. CB (4)563/12-13(01)' (*Legislative Council*, 15 April 2013) <<http://www.legco.gov.hk/yr12-13/english/panels/ps/papers/ps0415cb4-563-1-e.pdf>> accessed 18 September 2015, 5; *The Standard*, 'A ray of hope for ethnic minorities' *The Standard* (Hong Kong, 13 September 2012).

¹³ For specific requirement on language proficiency, see: Civil Service Bureau, 'Appointment Requirements' (*Civil Service Bureau*, 13 March 2015) <<http://www.csb.gov.hk/english/admin/appoint/35.html>> accessed 18 September 2015. The specific requirements on language proficiency vary from one position to another and are advertised from time to time.

¹⁴ Hong Kong Unison, (n 12) 4.

¹⁵ *ibid*.

¹⁶ Civil Service Bureau, 'Legislative Council Panel on Public Service Racial Profile of the Civil Service, LC Paper No. CB (1) 2436/10-11(02)' (*Legislative Council*, June 2011) <<http://www.legco.gov.hk/yr10-11/chinese/panels/ps/papers/ps0620cb1-2436-2-c.pdf>> accessed 18 September 2015.

¹⁷ *ibid*, Annex A. 82 out of the 225 respondents were White. The actual number of ethnic minorities for the purpose of this report would be 143.

¹⁸ *ibid*, §7.

¹⁹ Oriental News, '非華裔佔公務員不足 1%' *Oriental Daily* (Hong Kong, 10 April 2013) <http://orientaldaily.on.cc/cnt/news/20130410/00176_035.html> accessed 18 September 2015.

²⁰ Hong Kong Unison (n 12) 4.

²¹ Choya Choi, 'Ethnic advisers a force to be reckoned with for police' *The Standard* (Hong Kong, 18 June 2012) <http://www.thestandard.com.hk/news_detail.asp?pp_cat=11&art_id=123516&sid=36728782&con_type=1> accessed 18 September 2015.

²² John Carney, 'First South Asian woman police recruit starts work in Yuen Long' *South China Morning Post* (Hong Kong, 26 August 2012) <<http://www.scmp.com/news/hong-kong/article/1022848/first-south-asian-woman-police-recruit-starts-work-yuen-long>> accessed 18 September 2015.

²³ Census and Statistics Department, 'Hong Kong Population Census Interactive Data Dissemination Service' (*Census 2011*, 2011) <<http://www.census2011.gov.hk/pdf/idds/statistics-classification-idds-en.pdf>> accessed 18 September 2015.

²⁴ *ibid*.

²⁵ Equal Opportunities Commission, 'Submission for the Panel Meeting on Public Service on 20 July 2015 on Employment of Ethnic Minorities in the Civil Service' (*Equal Opportunities Commission*, July 2015) 3.

²⁶ Community College of City University, 'Empowerment through business: South Asian Entrepreneurship in Hong Kong' (*Equal Opportunities Commission*, July 2015) <http://www.eoc.org.hk/EOC/Upload/UserFiles/File/Funding%20Programme/policy/1314/20150707/CityU-CC_eReport.pdf> accessed 18 September 2015.

²⁷ Flora Lau, 'Breaking through the barriers – Ethnic minority success stories and their implications for policy intervention in Hong Kong' (*Equal Opportunities Commission*, June 2015)

<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/Funding%20Programme/policy/1314/20150707/HKSYU_Report.pdf>.

²⁸ Community College of City University (n 26) 12-15.

²⁹ Lau (n 27) 6-9.

³⁰ Alan Yu, 'Pakistani in Hong Kong could run his business 100pc – if only he was made to learn Chinese in school' *South China Morning Post* (Hong Kong, 8 July 2015)

<<http://www.scmp.com/news/hong-kong/education-community/article/1834408/pakistani-hong-kong-could-run-his-business-100pc>> accessed 18 September 2015.

³¹ Community College of City University (n 26) 18.

³² *ibid* 18-19.

³³ *ibid* 19.

³⁴ *ibid* 33.

³⁵ *ibid* 19-20.

³⁶ *ibid* 20.

³⁷ *ibid* 21-24.

³⁸ 東網, '南亞裔本地營商乏援 難借貸不諳中文成障礙' 東網 (Hong Kong, 7 July 2015)

<http://www.on.cc/hk/bkn/cnt/news/20150707/bkn-20150707170128211-0707_00822_001.html> accessed 18 September 2015.

³⁹ Yu (n 30).

⁴⁰ EOC announces research findings of two funded research projects on ethnic minorities: see Equal Opportunities Commission, 'The EOC Announces Research Findings of Two Funded Research Projects on Ethnic Minorities' *Equal Opportunities Commission* (Hong Kong, 7 July 2015) <<http://www.eoc.org.hk/eoc/GraphicsFolder/ShowContent.aspx?ItemID=13157>> accessed 18 September 2015.

⁴¹ 古樂兒 and 黃杏美, '少數族裔營商條件受限制 平機會促政府作推動者' *In Media HK* (Hong Kong, 7 July 2015) <<http://www.inmediahk.net/node/1035752>> accessed 18 September 2015.

⁴² Hong Kong Council of Social Service (n 1).

⁴³ *ibid*, and Thematic Report 2011, Table 6.2.

⁴⁴ Jolie Ho and Jennifer Ngo, 'Quarter of South Asians are underpaid' *South China Morning Post* (Hong Kong, 9 July 2012) <<http://www.scmp.com/article/1006296/quarter-south-asians-are-underpaid>> accessed 18 September 2015.

⁴⁵ Hong Kong SAR Government, 'Information extracted from Press Release LCQ18: Employment Services for ethnic minorities' (*Information Services Department*, 13 November 2013) <<http://www.info.gov.hk/gia/general/201311/13/P201311130454.htm>> accessed 18 September 2015.

⁴⁶ *ibid*.

⁴⁷ Working Group of the Social Integration Project for Ethnic Minority People in Hong Kong, City University of Hong Kong and Unison Hong Kong, *A Research Report on the Employment Situation of South Asian People in Hong Kong* (Centre for Social Policy Studies 2003).

⁴⁸ Equal Opportunities Commission (n 25) 3-4.

⁴⁹ *ibid*.

⁵⁰ *ibid*.

⁵¹ *ibid*.

⁵² Lau (n 27) 30-32.

⁵³ *ibid*.

⁵⁴ *ibid*.

⁵⁵ *ibid*.

CHAPTER 5: POVERTY AND SOCIAL WELFARE

OVERVIEW

The Government published a report entitled '*Hong Kong Poverty Situation Report*' in 2012 which analyses the general poverty situation in Hong Kong. However, the report did not address the specific situation of ethnic minorities. To date, there has been no comprehensive Government study looking at the prevalence, root causes and impact of poverty among Hong Kong's ethnic minority population, although the Commission on Poverty has commissioned such a study. This is scheduled for completion in 2015.¹

The Hong Kong Council of Social Services (HKCSS) has responded to the data gap by compiling data from the Hong Kong population Census, and analysing the poverty situation of six ethnic minority groups, namely Pakistani, Nepalese, Indian, Indonesian, Filipino and Thai (all excluding foreign domestic helpers) ("ethnic minorities"²). The key findings of their report entitled, '*Poverty Situation of South and Southeast Asian Ethnic Minorities in Hong Kong*'³ (the "HKCSS Poverty Report") are supplemented by smaller-scale studies done by various NGOs, for example, the 2014 Shadow Poverty Situation Research Report on the Hong Kong South Asian Ethnic Minorities Families (the "Catholic Commission Shadow Report") co-authored by the Hong Kong Catholic Commission for Labour Affairs and the Catholic Diocese of Hong Kong's Diocesan Pastoral Centre for Workers (Kowloon)⁴.

Further research is more subject-specific, with the Research Report on the Enforcement of Statutory Minimum Wage and Accessibility of Anti-poverty Government Social Services or Measures among South Asians Residents of Hong Kong (the "Catholic Commission Minimum Wage Report")⁵ focusing on ethnic minority communities' access to government anti-poverty measures and the 2010 paper "Gendered discourses of coping strategies and perceived cultural challenges for low-income Pakistani families in Hong Kong, SAR"⁶ focusing on how poverty affects cultural norms within the Pakistani community.

The first and most urgent step is to conduct a comprehensive review of how members of the Hong Kong community end up in poverty in the first place and to track their progress once they enter the government's radar for service provision. If recipients of services targeting poverty alleviation or eradication persistently remain below the poverty line over a number of years and their situation fails to improve or if particular groups routinely feature as part of those living in poverty, the Government needs to identify the specific markers to identify early on those 'at risk of poverty' or 'at risk of poverty entrenchment'. There is a need to delve deeper into the situation of the worst off groups and understanding the factors that render them the most vulnerable to conditions of poverty and getting ensnared in the cycle of intergenerational poverty.

The Government's understanding of the extent of poverty and its root causes and impact on the capacity of the affected communities to have their basic needs and human rights met is indispensable to inform targeted policy-making in different sectors. Current measures appear to be broad and too general and as such, fail to tackle the needs of ethnic minorities living in poverty. For example, the focus in recent years has been to provide translation services to enhance access to government services. However, this assumes that ethnic minorities are aware of the services available in the first place. Moreover, this fails to focus on the underlying causative factors that make it more likely for ethnic minorities to end up in a situation of poverty.

A. POVERTY

A.1 Definitions

The following definitions are adopted from the HKCSS Poverty Report and are used throughout this chapter:

“Poverty Line” – set at 50% of median domestic household income, in line with the official government poverty line adopted in the Hong Kong Poverty Situation Report 2012 published in September 2013.

“Low-income Household” – a household whose monthly income is less than 50% of the median income for all households of a corresponding size

“Working Household” – a household with at least one employed member (excluding foreign domestic worker)

“Working Poor” – employed persons whose income levels are below the poverty line

“Child” – persons aged 15 or below

“Elderly” – persons aged 65 or above

A.2 Research Studies on the Poverty Situation in the South Asian Population Group

Part A of this chapter is based substantially on figures reflected in two studies – the HKCSS Poverty Report and the Catholic Commission Shadow Report. Part B of this chapter, which discusses more qualitative aspects of the poverty situation of ethnic minority communities in Hong Kong, draws on the findings in the Catholic Commission Minimum Wage Report.

The methodologies of the research studies, target sample and size are as follows:

HKCSS Poverty Report	
Methodology:	Statistical analysis based on 2001, 2006 and 2011 Census data excluding foreign domestic helpers
Ethnicities included:	Pakistani, Nepalese, Indian, Indonesian, Filipino and Thai

Catholic Commission Shadow Report	
Methodology:	Telephone survey by ethnic minority interviewers using Urdu, Hindi and English Surveys conducted in October-November 2013 Statistical analysis conducted by SPSS software
Sample size:	149 respondents, aged 15 or above
Sample selection:	Snowball and convenient sampling
Ethnicities included:	Pakistani, Nepalese, Bangladeshi and Indian

Catholic Commission Minimum Wage Report	
Methodology:	Surveys were done through street interviews, by ethnic minority interviewers in their personal social networks and through NGOs' ethnic minority programs. Surveys conducted in March-June 2012. Statistical analysis conducted by SPSS software
Sample size:	238 respondents, aged 15 or above
Sample selection:	Snowball and convenient sampling
Ethnicities included:	Pakistani, Nepalese, Bangladeshi, Sri Lankans, Indian and others

A3 Number of Households and Household Size

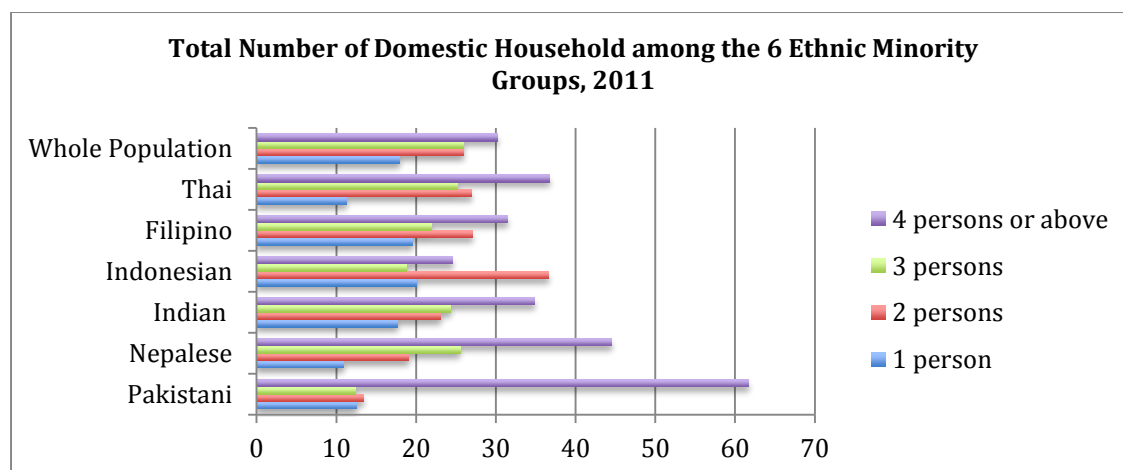
According to the HKCSS Poverty Report, in 2011 the total population of South and South-East Asians was approximately 114,000 (excluding FDH), which represented 1.7% of the whole population. This is consistent with the data presented in the Key Demographic Data chapter. The total number of households for the six minority groups was 36,298, with a large proportion of them having a household size of four persons or more. Only 30% of Hong Kong's population has households with more than four persons. However, in all South Asian groups except Indonesians, the number of households with more than four persons is significantly higher, as highlighted by *Table 5.1* below disaggregated by ethnicity and household size the total number of domestic households among the 6 ethnic minority groups in 2011.

Table 5.1: Six Ethnic Minority Groups Compared to the General Population in 2011, disaggregated by Ethnicity and Household Size⁷

Number of domestic households by ethnicity and by household size in 2011					
	1 person	2 persons	3 persons	4 persons or above	Total
Pakistani	576 (12.5%)	618 (13.4%)	570 (12.4%)	2,840 (61.7%)	4,604 (100%)
Nepalese	546 (10.9)	952 (19.0%)	1,277 (25.5%)	2,227 (44.5%)	5,002 (100%)
Indian	1,657 (17.7%)	2,146 (23.0%)	2,274 (24.3%)	3,262 (34.9%)	9,339 (100%)
Indonesian	485 (20.0%)	889 (36.6%)	455 (18.8%)	597 (24.6%)	2,426 (100%)
Filipino	1,535 (19.6%)	2,120 (27.1%)	1,713 (21.9%)	2,452 (31.4%)	7,820 (100%)
Thai	800 (11.3%)	1,911 (26.9%)	1,791 (25.2%)	2,605 (36.7%)	7,107 (100%)
Whole Population	422,676 (17.9%)	615,762 (26.0%)	613,468 (25.9%)	715,296 (30.2%)	2,367,202 (100%)

Source: Hong Kong Council of Social Service

Graph 5.1 – Total number of domestic households among the 6 ethnic minority groups in 2011 disaggregated by ethnicity and household size.



Source: Hong Kong Council of Social Service

These statistics are reaffirmed by the findings presented in the Catholic Commission Shadow Report, which similarly shows the high median household size among ethnic minorities, averaging at 4.52, with a median of 5.⁸

A4. Median Monthly Income

With the exception of Indians, the median monthly income of ethnic minorities is generally lower than that of the whole population. *Table 5.2* below shows that the difference in monthly income of ethnic minority households and that of the whole working population in Hong Kong ranges between HK\$2,000 and HK\$3,500.

Table 5.2: Median Monthly Income from Main Employment of Six Ethnic Minority Groups in 2011 Disaggregated by Ethnicity and Sex.⁹

Median monthly income from main employment by ethnicity and sex in 2011 (excluding foreign domestic helpers)			
Ethnicity	Median Monthly Household Income (HK\$) by Sex		
	Male	Female	Both Sexes
Pakistani	10,000	10,000	10,000
Nepalese	12,000	8,000	10,000
Indian	25,500	15,000	22,500
Indonesian	15,000	7,000	8,000
Filipino	13,000	9,000	10,000
Thai	12,500	7,800	8,500
Whole Working Population	13,000	10,900	12,000

Source: Hong Kong Council of Social Service

Chapter 5: Poverty and Social Welfare

However, the difference is even more conspicuous and alarming if we take into account the number of persons in each household. As seen in *Table 5.1*, ethnic minorities usually have bigger families: the number of households with four or more members among the whole population of Hong Kong is lowest compared to the six ethnic groups, (except Indonesians) and, with the exception of Indonesians, most households have more than four persons.

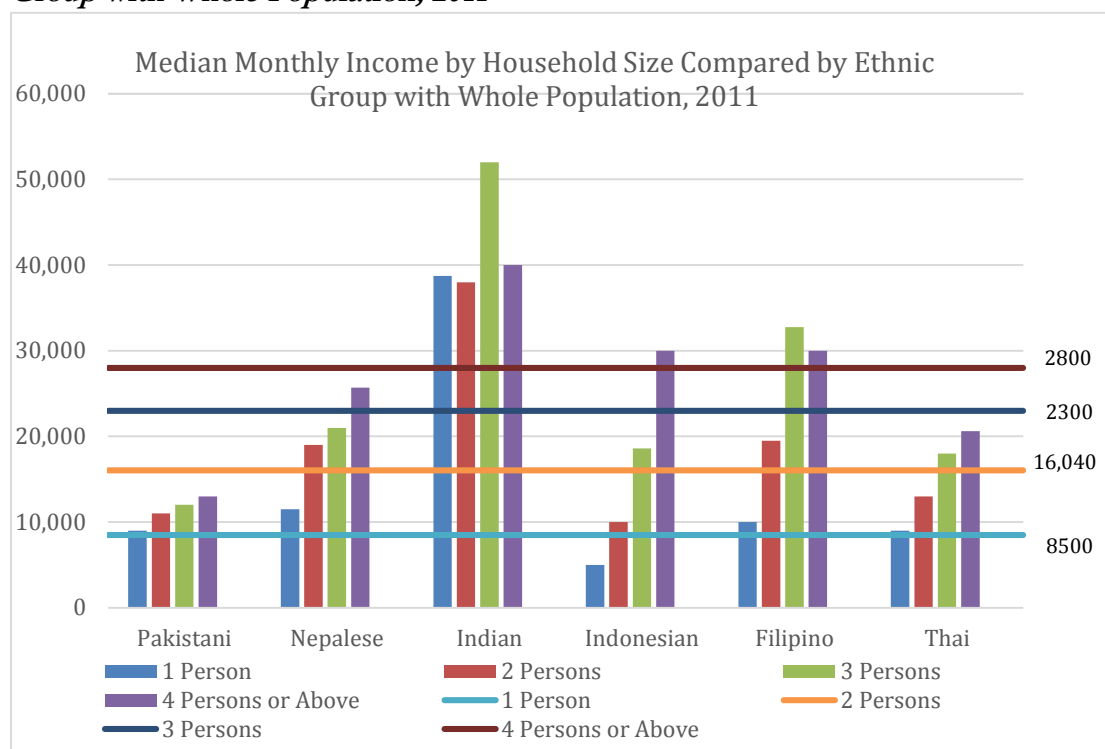
Table 5.3 and *Graphs 5.2 and 5.3* below show the median monthly household income of the six minority groups by household size and show that the situation among Pakistani households warrants special attention. The median monthly household income for Pakistanis in a 4-person household is HK\$13,000, which is significantly less than for Indians, which stands at HK\$40,000. If you divide that among the four members of the household, that is just a maximum expenditure of HK\$3250 per person in the Pakistani household of four compared to HK\$10,000 per person in the Indian household.

Table 5.3 Median Monthly Income from Main Employment of the Six Ethnic Minority Groups in 2011 Disaggregated by Ethnicity and Household Size¹⁰

Median monthly household income by household size in 2011							
	1 person	% change ← →	2 persons	% change ← →	3 persons	% change ← →	4 persons or above
Pakistani	9,000	22.2%	11,000	9.1%	12,000	8.3%	13,000
Nepalese	11,500	65.2%	19,000	10.5%	21,000	22.4%	25,700
Indian	38,750	-1.9%	38,000	36.8%	52,000	-23.0%	40,000
Indonesian	5,000	100%	10,000	86.0%	18,600	61.3%	30,000
Filipino	10,000	95%	19,500	67.9%	32,750	-8.4%	30,000
Thai	9,000	44.4%	13,000	38.5%	18,000	14.4%	20,600
Whole population	8,500	88.7%	16,040	43.4%	23,000	21.7%	28,000

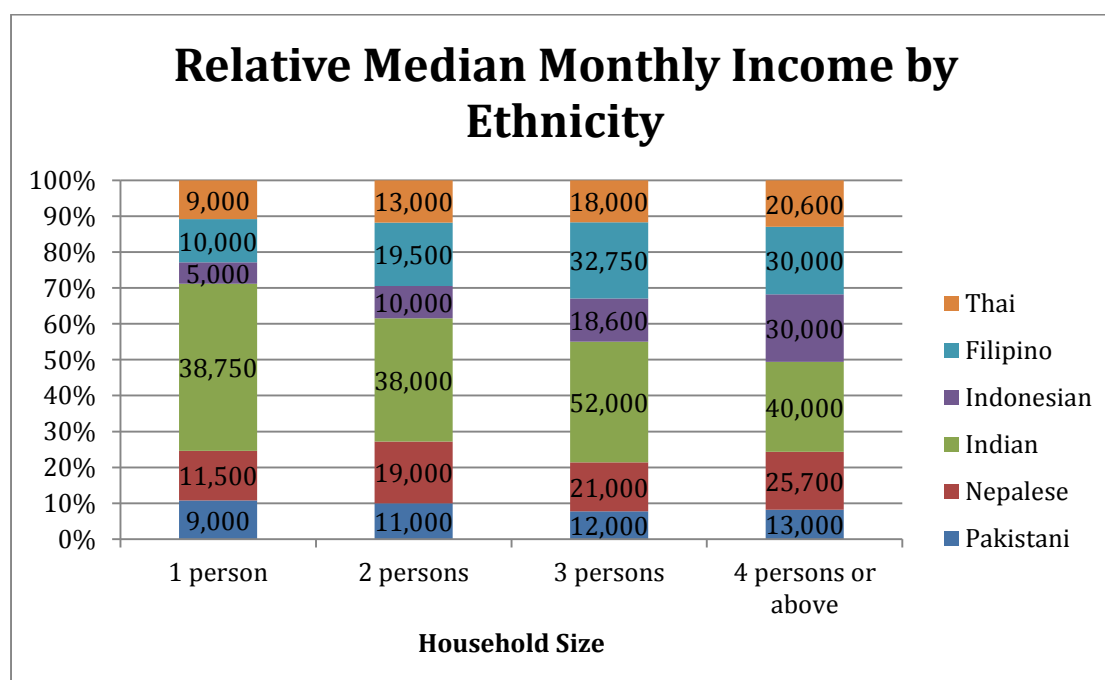
Source: Hong Kong Council of Social Service

Graph 5.2: Median Monthly Income by Household Size Compared by Ethnic Group with Whole Population, 2011



Source: Hong Kong Council of Social Service

Graph 5.3: Relative Median Monthly Income by Ethnicity

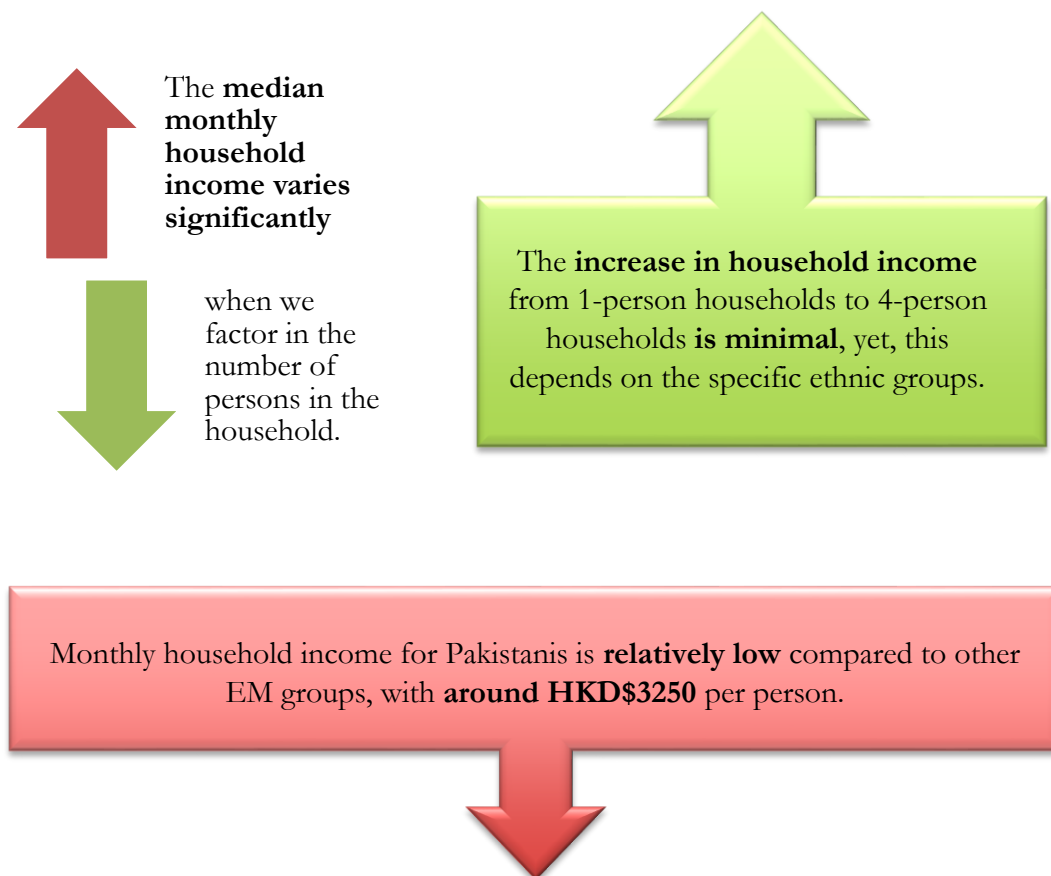


Source: Hong Kong Council of Social Service

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Table 5.3 also shows that although the increase in household income from 1-person households to 4-person households is minimal, it does vary significantly between ethnic groups. For example, there is a 44.4% increase in monthly median household income among Pakistani households whereas among Indonesians and Nepalese, the numbers are 500% and 123% respectively. If you consider the difference in value for Indians, however, the increase is a mere 3.2% from a 1-person to a 4-person household.

Moreover, when you look at the rate of increase in the median monthly household income between one person to two person; two person to three person; and three person to four person households for each of the groups, the contrast is stark. For example, for Indians and Filipinos the difference between the median monthly household income for the 3-person and 4-person households shows a decrease, indicating that those families tend not to be as well off as the ones with fewer household members.

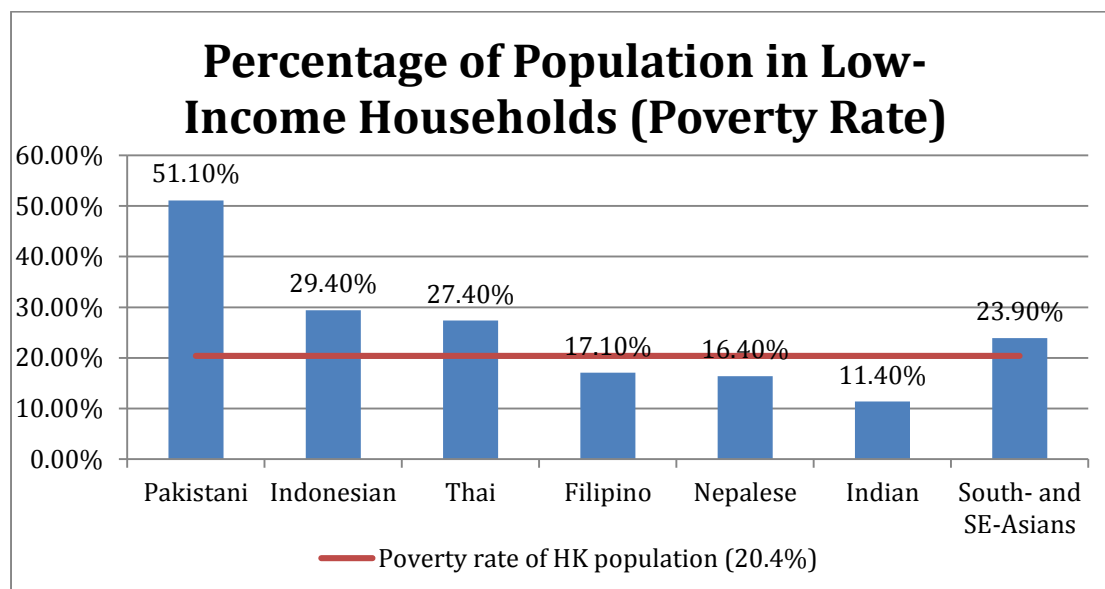


The figures presented in Catholic Commission Shadow Report are similar to the results of the HKCSS Poverty Report. It found that the median monthly household income was \$13,000 for the six ethnic minority groups and that the average ethnic minority household had 4.52 family members a much lower income than a household of similar size in the Hong Kong Chinese population group. The authors of the HKCSS Poverty Report and the Catholic Commission Shadow Report say this can be explained by the fact that ethnic minority households have fewer breadwinners.¹¹

These figures highlight precisely why one cannot apply generalised policies for poverty eradication across the board. As is clear from the tables above, different ethnic minority groups have different types of needs impacting their situation differently. These need to be understood and treated accordingly.

A5. Poverty Rate

Table 5.4 Percentage of Population in Low-Income Households (Poverty Rate)



Source: Hong Kong Council of Social Service

The Poverty rate in *Table 5.4* above refers to the proportion of households earning an income lower than the poverty line. Applying the poverty line definition to 2011 income data, the respective poverty line for a 1-person household, a 2-person household, a 3-person household and a 4-person household was: \$4,250, \$8,020, \$11,500 and 14,000.

The average poverty rate of South and South-East Asians was 23.9%, higher than that of the whole population of Hong Kong at 20.4%. Among the 6 minority groups, the poverty rate was highest among Pakistanis (51.1%), with 9,607 people living in low-income households. *Table 5.5* below shows the poverty situation of different ethnic groups.

Table 5.5: Number of Low-Income Households and the Total Number of Persons Living in these Households in 2011, disaggregated by Ethnicity¹²

	No. of low-income households (household poverty rate)	No. of persons in low-income households (poverty rate)
Pakistani	2,207 (47.9%)	9,607 (51.1%)
Indonesian	885 (36.5%)	1,880 (29.4%)
Thai	1,921 (27.0%)	5,989 (27.4%)
Filipino	1,416 (18.1%)	3,834 (17.1%)
Nepalese	731 (14.6%)	2,728 (16.4%)
Indian	940 (10.1%)	3,162 (11.4%)
Overall of South and South-East Asian	8,100 (22.3%)	27,200 (23.9%)
Whole population of Hong Kong	547,215 (23.1%)	1,356,539 (20.4%)

Source: Hong Kong Council of Social Service

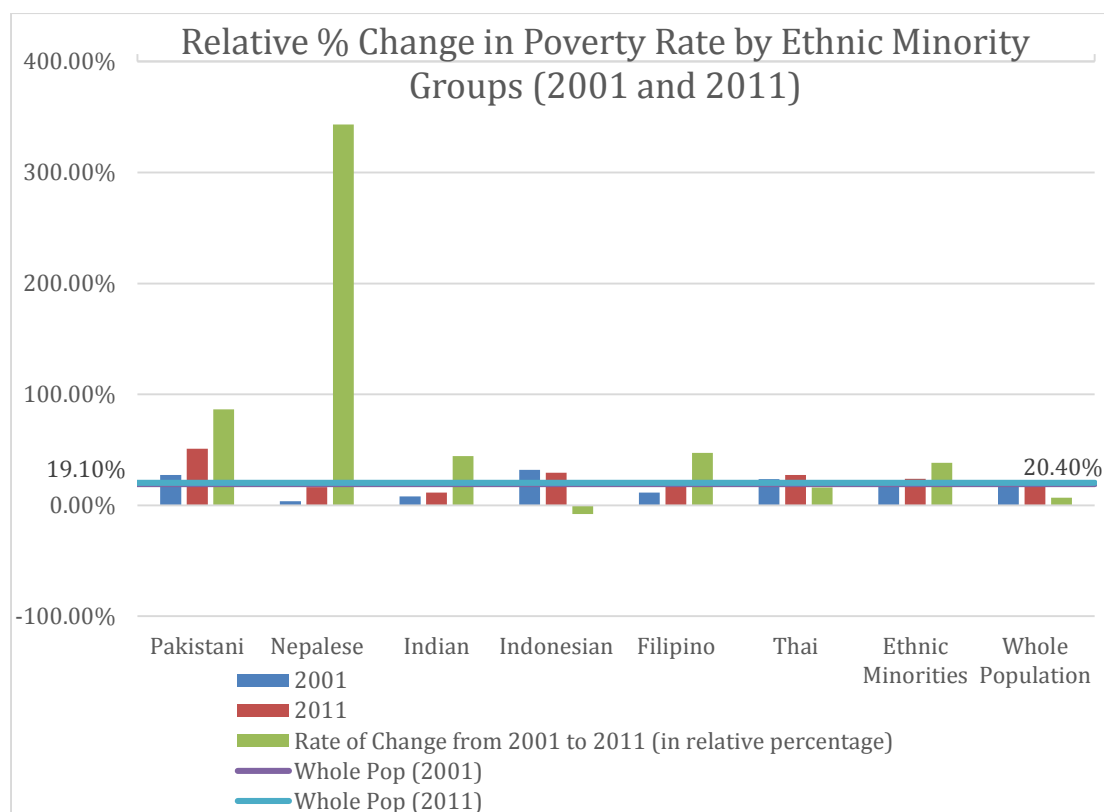
Table 5.6: Poverty Rate among Different Ethnic Minority Groups in 2001, 2005 and 2011 as Compared to the General Population¹³

	2001	2006	2011	Change 2001 to 2011 (absolute %)	Change 2001 to 2011 (relative %)	Increase (↑) Decrease (↓)
Pakistani	27.4%	35.4%	51.1%	23.7%	86.5%	↑
Nepalese	3.7%	17.0%	16.4%	12.7%	343.2%	↑
Indian	7.9%	13.3%	11.4%	3.5%	44.3%	↑
Indonesian	31.9%	26.0%	29.4%	(2.5%)*	(7.8%)	↓
Filipino	11.6%	16.8%	17.1%	5.5%	47.4%	↑
Thai	23.6%	22.8%	27.4%	3.8%	16.1%	↑
Ethnic Minorities	17.3%	20.5%	23.9%	6.6%	38.2%	↑
Population of Hong Kong	19.1%	20.5%	20.4%	1.3%	6.8%	↑

* Brackets signify a decrease

Source: Hong Kong Council of Social Service

Graph 5.4: Relative Change in Poverty Rate Between 2001 and 2011 by Ethnic Group compared with Whole Population (in percentage)



Chapter 5: Poverty and Social Welfare

The HKCSS Poverty Report further shows that poverty among ethnic minorities has worsened in the past 10 years. *Table 5.6* above highlights the increase of the poverty rate among different ethnic minority groups from 17.3% in 2001 to 23.9% in 2011. Whilst the poverty rate of the total population of Hong Kong has also increased, the rate of increase in poverty was much lower for the total population compared to that of ethnic minorities, particularly the Pakistanis and Nepali communities.

The Catholic Commission Shadow Report presents a more extreme picture. Of the **149 interviewed** ethnic minorities who held employment, **83 fall below the poverty line¹⁴**. This amounts to **55.7% of the total** surveyed.

The Government has established a Special Needs Groups Task Force (“the Task Force”) as part of the Commission on Poverty to run from December 2014 - June 2017. Its terms of reference include a review of policies and measures currently in place to support special needs or underprivileged groups in the community (which includes ethnic minorities) and to explore approaches to poverty prevention and alleviation through facilitative mechanisms for integration, upward social mobility and integration into the community.¹⁵ The Task Force has had three meetings to date but at the time of writing, there no ethnic minorities sitting on the Task Force or the Commission on Poverty, whether as members or co-opted members.

A6. Types of Occupation

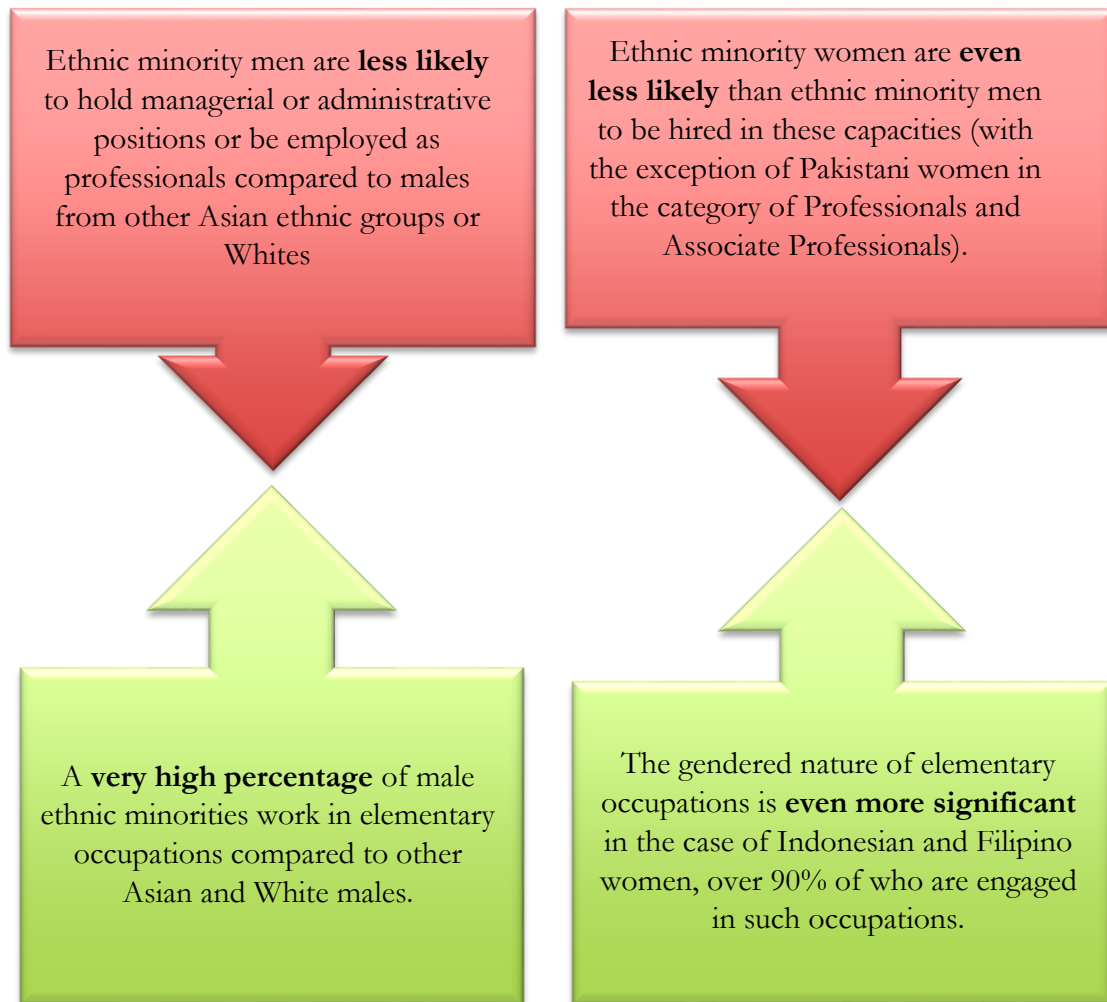
The findings of the HKCSS Poverty Report show a clear difference in the income structures between different ethnic groups. The results, displayed in *Table 5.7*, also show that gender plays a significant, if not, disconcerting role in determining the level, capacity and occupation in which ethnic minority men and women are employed.

Table 5.7 Proportion of Working Ethnic Minorities by Sex, Ethnicity and Occupation in 2011¹⁶

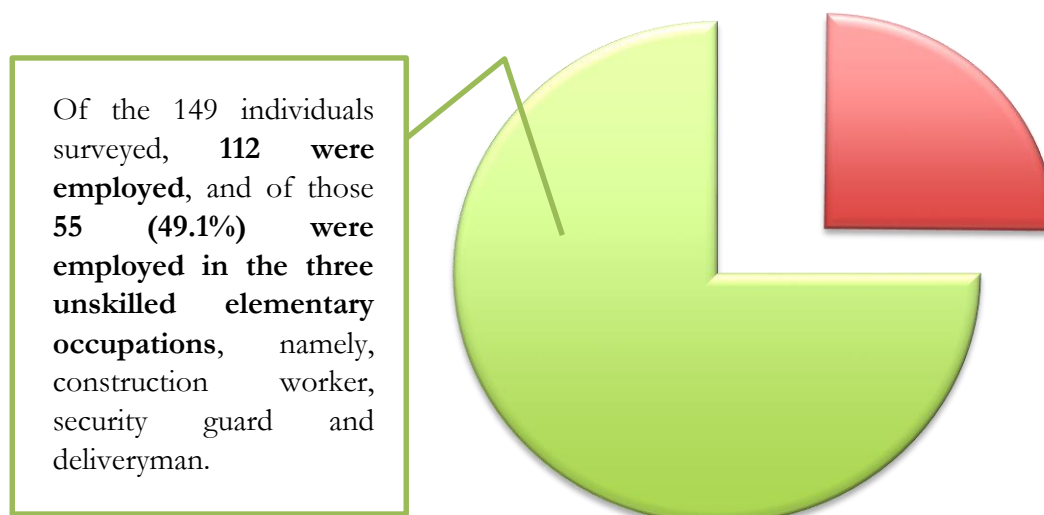
<u>Position</u>		Managers and Administrators (%)		Professionals/ Associate Professionals (%)		Elementary Occupations (%)	
Ethnicity	Gender	Male	Female	Male	Female	Male	Female
Indonesian		8.8	0.0	23.0	0.1	42.7	99.6
Filipino		5.6	0.2	30.9	1.0	35.9	96.9
Indian		38.2	11.3	35.1	24.9	5.7	42.9
Pakistani		8.2	14.2	14.2	42.6	38.4	14.9
Nepalese		2.4	0.5	8.2	3.7	39.3	46.6
Japanese		61.5	26.7	31.5	34.9	0.5	1.8
Thai		9.9	1.8	11.3	2.7	12.7	67.5
Korean		56.6	24.6	37.9	41.5	-	2.5
White		45.5	27.4	44.7	50.4	1.5	4.0
Whole Population		12.8	7.3	27.7	24.4	12.3	27.1

Source: 2011 Population Census, Thematic Report: Ethnic Minorities

The following are significant points to note from this data:



Similar findings are reported in the Catholic Commission Shadow Report.



A7. Working Poor

The HKCSS Poverty Report shows that the situation of working poor amongst ethnic minority groups is alarming. *Table 5.8* below shows that 5,099 out of the 8,100 low-income ethnic minority households were working households, reflecting a working poor rate of 63.0%. This is much higher than the working poor rate of the whole population (41.0%). Moreover, the working poor rate was higher in **all six ethnic minority groups** compared to the Hong Kong Chinese population.

Table 5.8 Percentage of the Working Poor Population Disaggregated by Ethnicity in 2011⁷

Ethnicity	% of Working Poor Households
Pakistani	68.6%
Nepalese	70.3%
Indian	59.0%
Indonesian	56.9%
Filipino	57.7%
Thai	62.3%
Overall: South and South-East Asian	63.0%
Whole population of Hong Kong	41.0%

Source: Hong Kong Council of Social Service

These results are duplicated in the findings shared in the Catholic Commission Shadow Report, which showed 83 out of 133 employed individuals under the poverty line (62.4% of the sample).

A8. Poverty by Age

The problem of child poverty is serious among ethnic minorities. From 2001 to 2011, the ethnic minority child poverty rate increased from 23.7% to 32.5%, with a total of 8,863 children living under poverty. The child poverty rate of the Hong Kong Chinese population was lower by 7%, at 25.0%.¹⁸

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Table 5.9. Domestic Households with Children (Aged under 15) by Ethnicity of Household Head and Type of Housing/ Quarters, 2011

Year	2011					
	Domestic Households with Children (Aged under 15)					
Type of Housing/Quarters	Public rental housing	Subsidized home ownership housing	Private permanent housing	Non-domestic housing	Temporary housing	Total
Ethnicity of Household Head						
Chinese	160139	63875	262401	726	3224	490365
Filipino	90	24	1544	135	5	1798
Indonesian	42	-	302	-	-	344
White	389	96	5832	84	61	6462
Indian	627	42	2746	-	4	3419
Nepalese	327	51	1770	3	23	2174
Japanese	24	-	1184	50	-	1258
Thai	139	6	255	-	-	400
Pakistani	1359	30	1264	3	57	2713
Other Asian	105	-	1067	-	-	1172
Others	383	127	784	16	-	1310
More than one household head	6336	17840	64729	160	539	89604
Total	169960	82091	343878	1177	3913	601109

Source: The Census and Statistics Department Interactive Data Dissemination Service

Table 5.10 below shows that, with the exception of the elderly (aged over 65), all other age groups also had a higher poverty rate than that of the total population in 2011. These 3 age groups ranged from 15-64, the majority of which should have been the most active and employable group in the labour market. The discrepancy in turn reflects the difficulties ethnic minorities face in the job market, as discussed in Chapter 4 on The Employment of Ethnic Minorities.

Table 5.10 Percentage of Persons Living Under Poverty, disaggregated by Age Range in 2011⁹

	Ethnic Minorities (A)	Total Population of Hong Kong (B)	Difference + = A>B - = A<B
0-14 (Children)	32.5%	25.0%	+7.5%
15-24 (Youth)	23.1%	20.2%	+2.9%
25-44 (Adult)	19.9%	13.0%	+6.9%
45-64 (Adult)	18.9%	17.6%	+1.3%
65 or above (Elderly)	34.6%	40.6%	-6%

Source: Hong Kong Council of Social Service

One further concern is the situation of the ethnic minority elderly, as the available data on the poverty situation of ethnic minority elderly is limited. While the overall poverty rate

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for elderly (aged 65 or above) for ethnic minorities is lower than that of the HK population as a whole,²⁰ the fact remains that there is a lack of studies on the living conditions and social support available to them (e.g. how many of them live in elderly care homes, their participation in local community, etc.). Senior Citizen Home Safety Association, a 24-hour emergency support and caring services NGO, offers a more comprehensive set of services for ethnic minority elderly²¹ (which includes talks and outreach visits, health consultation by nurses).

B. SOCIAL WELFARE

B1. Policy Considerations

At present, policies designed to provide assistance to ethnic minorities are too broad and lack specific measures to cater for different ethnic groups and their particular needs.²² As the Key Statistics section reveals, data relating to South and South-East Asians are generally analysed alongside those of Whites, Japanese, and Korean for policymaking. By grouping all “ethnic minorities” together without a careful examination of their diverse profiles, it is very likely that the real needs of the less affluent groups will be neglected.

Moreover, careful planning and execution is warranted in the administration of public services to ethnic minorities. For instance, Chapter 7 on Healthcare Needs of Ethnic Minorities will show that some ethnic minority drug abusers are not receptive to rehabilitation services because of the religious affiliation or lack of cultural sensitivity of the rehabilitation organisations.

Some ethnic minority women may find it difficult to utilise public services due to the **unavailability of female officers or doctors**, which may be a prerequisite in their culture. This becomes a **significant barrier in seeking help against violence or medical attention**. The **lack of support measures** to assist these women, who live in a value framework informed by their religious and cultural beliefs and therefore, have **different needs** and **accessibility issues**, has **serious ramifications for feminine health and safety among ethnic minority women**.



The Hospital Authority has noted this problem and **instituted cultural sensitivity training** for its frontline staff i.e. staff at enquiry counters, nurses and clerks, with over **4,400 staff having undergone this training as of December 2013**.²³ However, **concerns remain over the quality of the program** – the details of which are not disclosed – and over the fact that **doctors and other professional staff do not seem to have been included in the training program**.

As the HKCSS observes, while setting up special services targeting ethnic minorities may allow more flexibility in their design and implementation, such an approach would create segregated services, deflecting from the overall goal of encouraging integration in the long

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run.²⁴ HKCSS therefore proposes in its report that the Government adopt the policy of “mainstreaming ethnic minority services,” with an aim of introducing diversity concepts and elements of integration into existing mainstream measures such that racial equality and harmony are achieved.

The lack of execution of the government’s equal opportunity policy is a further problem. In response to Legislative Council requests and public pressure, the Constitutional and Mainland Affairs Bureau issued the “Administrative Guidelines on Promotion of Racial Equality” in April 2010 (the “CMAB Guidelines”), which provide instructions to public authorities to ensure that they operate in a race-neutral manner. The Catholic Commission Shadow Report points out, however, that the CMAB Guidelines are not legally binding and have no independent enforcement mechanism. Government departments most responsible for poverty alleviation have not taken the CMAB Guidelines into consideration when formulating ethnic minority-related policies – in particular, government departments have failed to consider the special conditions and needs of ethnic minorities as required under the CMAB Guidelines.²⁵

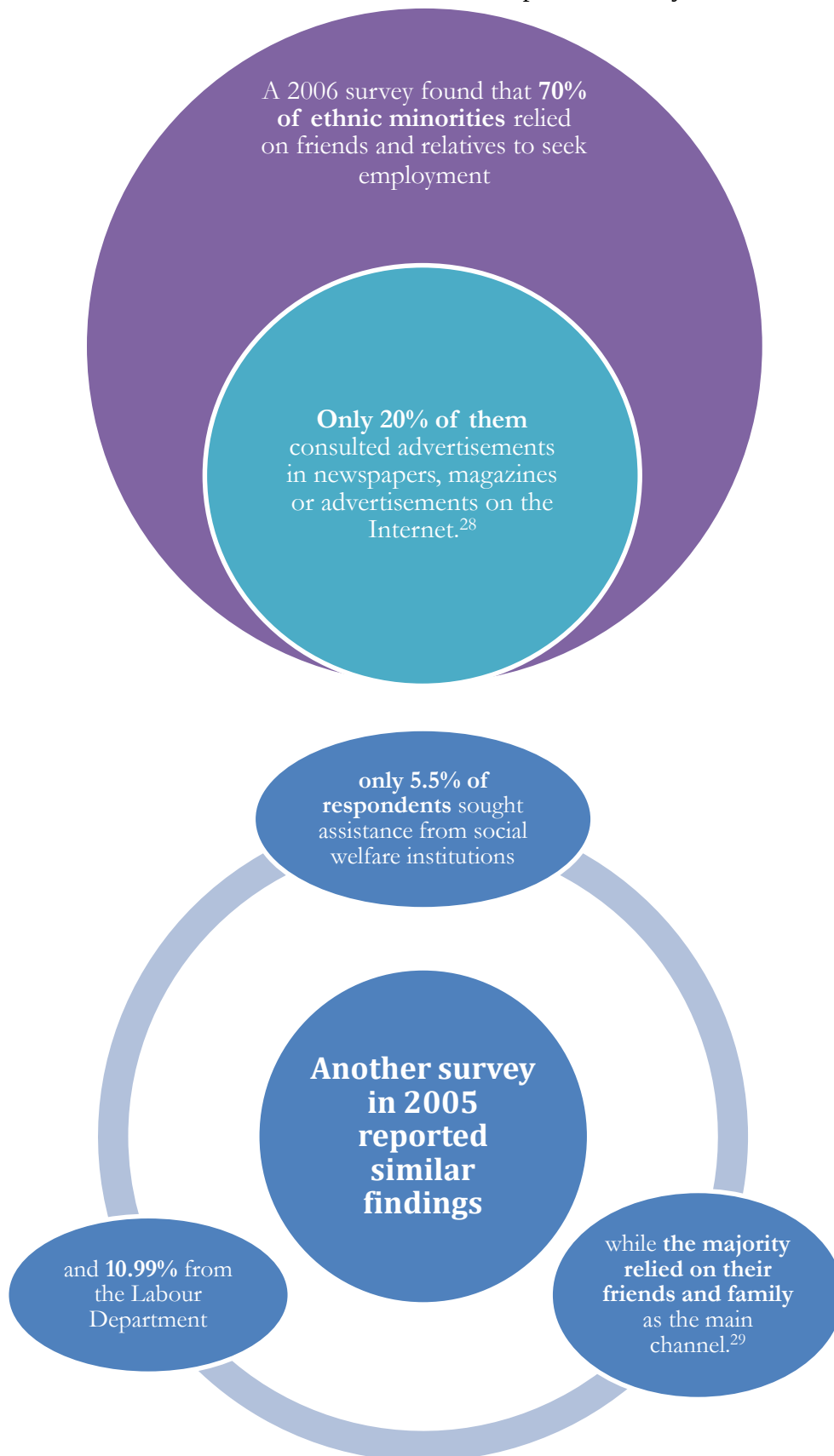
This failure can be seen in the Commission on Poverty’s report entitled “Employment education, job training and employment support for ethnic minorities” (the “COP Job Training Report”), a comprehensive review of employment support by different government departments.²⁶ Save for two notable exceptions, including an affirmative action policy for enrolling ethnic minority students at Vocational Training Council courses and a policy that Labour Department job expos must offer positions which ethnic minorities can apply for, the policies listed do not specifically cater to ethnic minority needs. Rather, they describe job training and employment support services which are open to the general public as a whole.²⁷

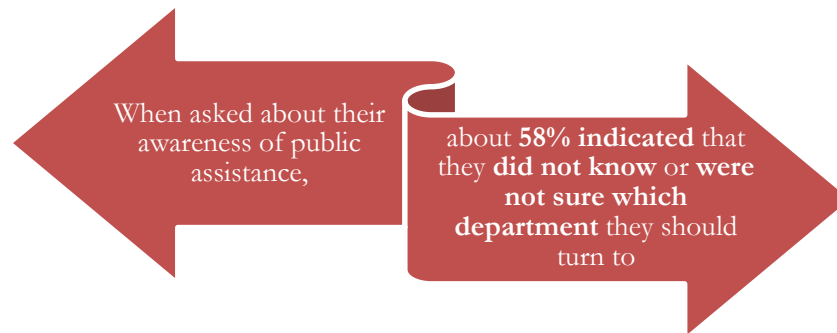
B2. Language, Cultural Barriers and Information Deficit

The inadequacy of the existing welfare policies is aggravated by the difficulties posed by language and cultural barriers. Many surveys have shown that ethnic minorities labour under a large information deficit. They are often unaware of social services to which they are entitled, which of course exacerbates the poverty situation.

Take employment assistance as an example. Many ethnic minorities express difficulties in seeking employment but are unsure about where to seek help.

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This is not surprising given the provision of employment assistance services only in Chinese and English, with translation services being provided only *ad hoc* onsite, as described in the COP Job Training Report. This is possibly one of the reasons for the poor success rate of the Labour Department's job seeking services for ethnic minority users – in 2010-2012, with approximately 1,000 users per year, the service only had a success rate hovering around 10%.³⁰

On the education front, similar information deficits were found.

- Before the “3-3-4 scheme” (whereby the HKDSE replaced the HKCEE and HKALE) was implemented, a survey in 2010³¹ found that **over 65% of ethnic minority parents did not know** about this scheme.
- **About 20%** of them also indicated **lack of knowledge** about role of English language exam results for university entrance in Hong Kong.
- An Oxfam study confirms this result, finding that **only 30.5% of ethnic minority parents knew** they could access information materials from Education Bureau websites and offices.³²

The story is similar when it comes to minimum wage and employment law entitlements.

The Catholic Commission Minimum Wage Report found that **around one-fifths of their employed respondents did not know** about the **statutory minimum wage** at all (23%), or about **the paid meal break** (28%) and **paid rest day** (21.4%) under general employment legislation.³³

Ethnic minorities' knowledge gap is reflected again in anti-poverty social service measures. The Catholic Commission Minimum Wage Report found that respondents generally showed poor awareness of several major social welfare policies aimed at poverty alleviation.

The survey found that **only 35.7% knew** about the Work Incentive Transport Subsidy Scheme, **47.4% knew** about the Kindergarten & Child Care Centre Fee Remission Subsidy, and **30.7% knew** about the After School Care Programme run by the Social Welfare Department.

The Catholic Commission Minimum Wage Report asked ethnic minorities about the problems they faced in the course of applying for anti-poverty social services.

Language and bureaucracy were highlighted as the primary barriers. Aside from language difficulties (i.e. information not in an intelligible language), significant proportions of the respondents also stated that **the complexity of the application forms** (42.1%), **difficulty in communication with government staff** (31.6%) and the fact that **government staff cannot help** (28.1%) posed barriers to access to these social services.

The Government has, in recent years and particularly since late 2014, begun to take a more bottom-up approach to addressing the information deficit problem. In the Commission on Poverty report entitled “The Home Affairs Department’s improving support for ethnic minority integration,”³⁴ the government lists out several policies such as the establishment and expansion of local service centres for ethnic minorities, the setting up of “youth units” at all service centres and an Ambassadors Scheme for ethnic minority youths. The stated goals of such policies are to engage ethnic minority youth, to foster a sense of community through sports and cultural activity programs organized by the service centres and outreach “youth units” and to provide referrals to other government services and NGOs when needed. Perhaps with a view to the particularly pressing needs of the Pakistani and Nepalese communities, the Home Affairs Department has also established Community Support Teams specifically targeting these two ethnic communities.³⁵

These are welcome developments, though the effectiveness of these initiatives are yet to be assessed, especially given the lack of published information on the day-to-day duties and recruitment policies for government officials involved in the administration of such initiatives. Questions also remain as to whether these initiatives can or will be scaled up – for example, the “youth units” comprise 22 staff members to cover the whole of Hong Kong, and there are to date only some 30 Youth Ambassadors, though more are in training.

The Government has been responding to the problem of the language barrier by increasing the provision of translation service online and in the public. While commendable, translation services alone will not resolve all existing problems faced by ethnic minorities, for several reasons.

1. Government policy is to upload translated documents onto pages in official government websites, which are themselves only available in English and Chinese
2. Translation services are rarely used: 14 times for the Housing Department and Labour Department together in 2012-2013;³⁶ 102 times for telephone and 49 times for escort interpretation services at the Social Welfare Department in 2013-2014 (3.5% and 10% of the total usage rate respectively).³⁷
3. the Government does not track data concerning the literacy level, computer literacy and Internet access, which are needed to assess policy effectiveness

Of course, in order for translation services to be effective, ethnic minorities must know where to seek help and not be discouraged from doing so by other barriers to information such as distrust of authority and experience of corruption in their home countries.³⁸

The Catholic Commission Shadow Report points out that **government information is not disseminated through informational channels most accessible** to ethnic minorities such as local ethnic minority-language newspapers or local mosques and temples.³⁹ Recent reports that the Home Affairs Department has hired **3 full-time multi-lingual ethnic minority individuals** to assist the translating and information dissemination process are encouraging.⁴⁰

B3. Minimum Wage and Labour Law Enforcement

It is perhaps not surprising that the minimum wage regime has a disproportionate effect on ethnic minority communities, given the concentration of their employment in low-paying blue-collar jobs. On that premise, the government's enforcement of the minimum wage regime is disappointing.

The Catholic Commission Minimum Wage Report shows that of a sample of 129 employed respondents, **22.4% were paid less than \$28 per hour**, lower than the minimum wage at the time of the survey.⁴¹ The situation was **particularly poor for security guards**, which made up more than half of the underpaid respondents.

Similarly, the enforcement of the provision of paid meal breaks and of paid rest days, both of which are entitlements under employment law, is problematic.

47% of the employed respondents indicated that they **did not have paid meal breaks**; another **47.3% indicated** that they **did not have paid rest days**.⁴²

Given the inherent difficulties that employees have in reporting violations of employment law to the authorities (e.g. for fear of retaliation or victimisation by way of dismissal), it falls on the government to improve inspections and enforcement actions.

B4. Comprehensive Social Security Scheme (CSSA), Social Security Allowance (SSA) and other subsidy schemes

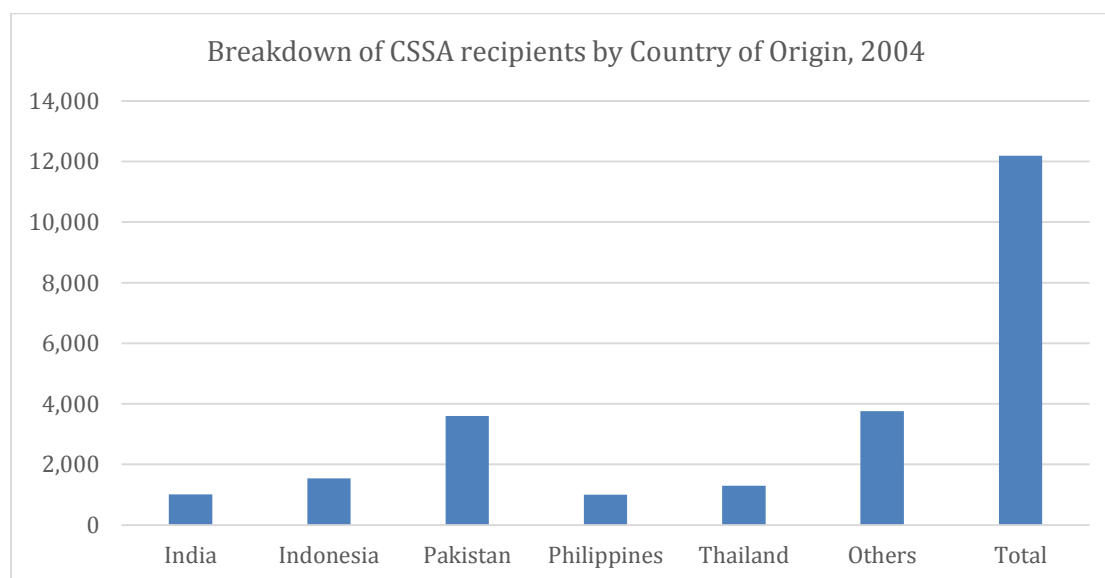
The number of applications for CSSA and SSA and the number of recipients for such subsidies among ethnic minorities is scarce as compared to the number of persons living under poverty (see *Table 5.4*). *Table 5.11* below shows the number of CSSA and SSA applications from ethnic minorities in the financial years 2006-2007, 2007-2008 and 2008-2009 respectively. *Table 5.12* expands on the breakdown of CSSA recipients by ethnicity in the years ended 2001-2004.

Table 5.11: Number of CSSA and SSA Applications from Ethnic Minorities in the Financial Years 2006-2007, 2007-2008 and 2008-2009⁴³

Financial Year	No. of Ethnic Minority Applications for CSSA	No. of Ethnic Minority Applications for SSA		Total	No. of Ethnic Minority Persons in Low-income Households
		Old Age Allowance	Disability Allowance		
2006-2007	7,703	1,783	796	10,282	27,200 ⁴⁴
2007-2008	7,517	1,974	844	28,335	
2008-2009	7,557	2,230	910	10,697	

Source: HK SAR Government, LCQ18

Graph 5.5: Breakdown of CSSA recipients by Country of Origin in the year ending 2004



HK SAR Government, Response to LCQ18: Annex II

Table 5.12 Number of CSSA Recipients Reporting Country of Origin⁴⁵ being Places Other Than China by Country of Origin, by year ending 2001-2004⁴⁶

Year	India	Indonesia	Pakistan	Philippines	Thailand	Others	Total
2001	561	839	2,546	341	845	2,571	7,703
2002	786	1,139	3,126	616	1,047	3,151	9,865
2003	971	1,173	3,389	905	1,209	3,357	11,404
2004	1,005	1,543	3,596	997	1,298	3,758	12,197

Source: HK SAR Government, Response to LCQ18: Annex II

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There could be many reasons for the under-utilization of the CSSA and SSA schemes, for example, unawareness about entitlement and preference to rely on oneself. In the case of ethnic minorities, there may be extra hurdles. Begum, a 38-year-old Pakistani woman, reported that she could not apply for CSSA because of the lack of a bank account.⁴⁷ The apparently widespread phenomenon of banks refusing to open bank accounts for ethnic minorities is now under investigation by the Equal Opportunities Commission.⁴⁸

The generally low application rate for government subsidies among ethnic minorities is also reflected in the Catholic Commission Shadow Report.

Of the 149 ethnic minority individuals surveyed for the report, **73.8% had not applied for CSSA**. A similar proportion of the working poor – **73.5% – also refused to take CSSA**.⁴⁹ Furthermore, **individuals who applied for the Work Incentive Travel Subsidy Scheme and the Student Financial Assistance Scheme only comprised 6% and 17.3% of the respondents respectively**. The report suggests three possible reasons for this phenomenon: *the self-reliant attitude* of ethnic minorities, *language barriers* and cumbersome application procedures or the *inability to meet a condition* which is difficult for this group to fulfil.⁵⁰

C. THE EFFECT OF POVERTY ON ETHNIC MINORITY CULTURES

The 2010 paper “Gendered discourses of coping strategies and perceived cultural challenges for low-income Pakistani families in Hong Kong, SAR”⁵¹ provides insights on how ethnic minority cultures are affected by chronic poverty in the Hong Kong context.

First, traditionalist views towards gender norms remained intact. Female respondents were **strongly deterred from seeking employment** notwithstanding dual incomes among spouses being a Hong Kong norm.⁵² The need to have women working for wages implied that **the male breadwinner was failing** in his traditional duty to provide a living wage for the family.

Second, the initial assumption that the social networks of the respondents would provide help to low-income families in coping with poverty was not made out. The study found that **informal systems of support were lacking** in the surveyed Pakistani community, with the **respondents having to purchase translation services** from Pakistani neighbours in order to access medical resources and social services.⁵³ The respondents generally agreed that **kinship and community support was better established in Pakistan than in Hong Kong**.

Third, the **respondents described CSSA as “a highly ambivalent issue”** and were aware of the **high social costs** that applying for CSSA carried. The respondents **described CSSA as essential** for the financial survival of low-income families but also blamed it for the **erosion of cultural, religious and family values**.⁵⁴ In particular, it was said that **CSSA went against the Pakistani culture** which decreed that one should work for a living, and also **diminished the Muslim paternal authority** in the family (since the father is no longer the main source of income for the family), leading to **tensions with spouses and with children**.

KEY OBSERVATIONS

In terms of the Median Monthly Income, the monthly household income for Pakistanis is relatively low compared to other ethnic minority groups, with an average of HKD\$3250 per person. The increase in household income from 1-person households to 4-person households is minimal, yet, specific ethnic groups display different patterns and these warrant close scrutiny to identify at risk groups. The median monthly household income varies significantly when we factor in the number of persons in the household and it highlights the seriousness of the povertisation of minority households as household sizes increase.

The poverty rate of Pakistani minorities is high, at 51.1% and the rate of poverty from 2001 to 2011 has increased for all ethnic groups, except Indonesians. The working poor rate amongst South and South-East Asians is 63%, whereas for the Hong Kong population overall, it is 41%. Although Pakistanis have seen the highest increase in the rate of working poor, the rate for all ethnic minorities has gone up by 6.6% compared with that of only 1.3% among the overall population of Hong Kong.

Since a very high percentage of male ethnic minorities work in elementary occupations compared to other Asian and White males, meaning that ethnic minority men are less likely to hold managerial or administrative positions or be employed as professionals compared to males from other Asian ethnic groups or Whites, there are lower income levels among this group. Along gender lines, ethnic minority women are even less likely to be hired in these capacities (with the exception of Pakistani women in the category of Professionals and Associate Professionals). The gendered nature of elementary occupations is even more significant in the case of Indonesian and Filipino women, over 90% of who are engaged in such occupations, accounted of course, in large part by the domestic worker population of Hong Kong.

South and South-East Asians are analysed alongside Whites, Japanese, and Korean for policymaking in relation to ethnic minority groups in Hong Kong. This is clearly an undesirable approach as it is unspecific and overlooks the actual needs of the less affluent groups among ethnic minorities. More also needs to be done in terms of the administration of public services to ethnic minorities. Setting up special services allow flexibility in the operational design and implementation but may segregate services, making those services harder to run. Therefore, initially, a mapping exercise is needed to better understand the extent of the problem and to design targeted interventions to deal with specific issues. At the same time, a macro-level approach that connects the different issues is also indispensable so as to ensure an improvement in the situation of ethnic minorities in terms of welfare and poverty in the longer run. Without a macro-level overview, poverty entrenchment cannot be tackled effectively. This will breed intergenerational poverty.

Across government sectors, the information deficit and language barriers are notable. 70% of ethnic minorities relied on friends and relatives to seek employment and only 5.5% of the respondents of a 2005 survey sought employment assistance from social welfare institutions. Of even greater concern was the indication of 58% of those surveyed stating that they did not know or were not sure which department to approach for assistance.

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Finally, the findings highlight the effects of poverty on ethnic minority cultures and vice versa. Traditionalist views towards gender norms remain intact and informal systems of support are lacking especially in the Pakistani community. CSSA, although viewed as essential for the financial survival of low-income families, was also criticised for eroding cultural, religious and family values and therefore, rates of application and receipt are comparably low when looking at the number of ethnic minorities and their households in poverty. A deeper understanding of the interrelationship between these issues is necessary to assist effective poverty alleviation efforts.

RECOMMENDATIONS

1. Need for research into and data on the situation of poverty in Hong Kong as disaggregated by ethnicity. This chapter highlights the distinctions in terms of poverty that clearly exist between different ethnic minority groups and also between ethnic minorities and the population as a whole.
2. Current trends reveal deeply troubling impact of exacerbation of situation of poverty due to multiple deficiencies in core areas of life, particularly impact on education, employment, living conditions, health and prospects for upward economic mobility. The figures reveal differences, however, between ethnic groups. There is a need for targeted interventions to address situation of specific ethnic minority groups. In some instances, there is a need for diversity mainstreaming by accounting for the impact of policies on ethnic minority communities.
3. There are visible signs of intergenerational poverty and entrenchment which are interlinked closely with issues stemming from systemic discrimination or structural problems in the education and employment sectors. These need to be immediately addressed. It is suggested that a multidisciplinary taskforce begin conducting an impact assessment and evaluation of legal and policy measures in place in relation to the development of ethnic minority children and their life prospects and wellbeing.
4. There is a need for more effective outreach strategies to enhance accessibility to existing services, including wider dissemination of information through appropriate channels. Current measures and efforts are clearly insufficient and inadequate.
5. There is a need to design services to address specific needs of ethnic minority groups living below the poverty line or critically close to the poverty line.
6. Need to identify individuals and families at critical risk of falling below the poverty line due to particular factors ('at risk' groups). At-risk group identification should facilitate identification of key indicators of poverty and help inform strategies to break the cycle of poverty.
7. Need to study the link between childhood poverty and other indicators (including education, employment, and health).
8. Administrative guidelines pertaining to racial equality or general vocational course provisions are not enough to tackle a problem of this magnitude. There is a need for a multipronged and multidisciplinary approach using concerted strategies aimed at addressing the root causes of poverty.

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9. The appointment of ethnic minority members with specialised knowledge and expertise could be helpful to the Task Force of the Commission on Poverty that is working on vulnerable groups when it considers the impact of existing measures on poverty alleviation and what policies and approaches would assist with its objective of poverty prevention and alleviation in the long run.
10. It would be helpful if COP's work could gain further transparency by publicising its meeting documents and materials in English in addition to Chinese, particularly if the Task Force's work is to be scrutinised for its impact and relevance to the needs of one of the groups that fall within its mandate of review.
11. There is a need to develop a rights-based approach to inform policy-making to alleviate poverty.
12. Maintain and scale-up the current bottom-up initiatives to facilitate contact and integration of ethnic minorities into the local community.
13. There is a need for more proactive enforcement of minimum wage and other employment legislation.
14. Establish a high-level Commission on Ethnic Minority issues to understand from micro and macro perspectives the issues facing ethnic minorities in Hong Kong. All these issues are interlinked i.e. Poverty affects education and vice versa, employment, health etc. This needs to be information that is available to a single body to scrutinise where to begin remedying the structural flaws that perpetuate the cycle of poverty pertaining to particular groups.

¹ 王家文, '扶委會研少數族裔貧窮' *Apple Daily* (Hong Kong, 27 November 2013) <<http://hk.apple.nextmedia.com/news/art/20131127/18525890>> accessed 19 July 2015.

² For the purposes of this Report, we call them 'ethnic minorities,' although for this particular chapter, the groups include one more ethnic group than the five that are generally described by the phrase 'ethnic minorities' as used in the rest of this Report. We have done this for the sake of completeness and to allow comparisons to be drawn across different ethnic groups with the situation of the Hong Kong Chinese population.

³ Hong Kong Council of Social Service, 'Poverty Situation of South and Southeast Asian Ethnic Minorities in Hong Kong' (*Poverty*, 10 December 2013) <http://www.poverty.org.hk/sites/default/files/20131218_em_e.pdf> (accessed 19 July 2015).

⁴ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon), 'Shadow Poverty Situation Research Report – on the Hong Kong South Asian Ethnic Minorities Families' (*Catholic Diocese of Hong Kong Pastoral Centre for Workers (Kowloon)*, January 2014) <http://dpcwkln.hkcccla.org.hk/document/108_07.pdf> accessed 20 July 2015.

⁵ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon), 'Research Report on the Enforcement of Statutory Minimum Wage and Accessibility of Anti-Poverty Government Social Services or Measures among South Asians Residents of Hong Kong' (*Catholic Diocese of Hong Kong Pastoral Centre for Workers (Kowloon)*, December 2012) <http://dpcwkln.hkcccla.org.hk/document/108_01.pdf> accessed 20 July 2015.

⁶ Sara Ashencaen Crabtree, 'Gendered discourses of coping strategies and perceived cultural challenges for low-income Pakistani families in Hong Kong, SAR' (2011) 14 *European Journal of Social Work* 363-378.

- ⁷ Hong Kong Council of Social Service (n 3) 2.
- ⁸ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 31-32.
- ⁹ Hong Kong Council of Social Service (n 3) 2.
- ¹⁰ *ibid* 3.
- ¹¹ *ibid* 3; Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 34-35.
- ¹² HKCSS (n 3) 4.
- ¹³ HKCSS (n 3) 4.
- ¹⁴ The poverty line here is based on the household median income according to the Census Department: Census and Statistics Department, 'Quarterly Report on General Household Survey (Third Quarter 2013)' (Census and Statistics Department, 25 November 2013) <<http://www.statistics.gov.hk/pub/B10500012013QQ03B0100.pdf>> accessed 13 September 2015.
- ¹⁵ Commission on Poverty, Special Needs Groups Taskforce, <http://www.povertyrelief.gov.hk/eng/sngtf.html> accessed 29 August 2015.
- ¹⁶ Partly reproduced from Thematic Report, pp.73-74, Table 6.3 (Note the percentage in each ethnic group does not add up to 100% because the sector of "clerical support workers/ service and sale workers", "Craft and related workers, plant and machine operators and assemblers" and "skilled agricultural and fishery workers; and occupations not classifiable" are omitted).
- ¹⁷ Hong Kong Council of Social Service (n 3) 6.
- ¹⁸ Oxfam Hong Kong, 'Survey on the Chinese Learning Challenges South Asian Ethnic Minority Kindergarten Students from Low-Income Families Face' (Oxfam Hong Kong, December 2014) <http://www.oxfam.org.hk/filemgr/2639/Oxfam_Surveyon_Dec2.pdf> accessed 20 July 2015.
- ¹⁹ Hong Kong Council of Social Service (n 3) 5.
- ²⁰ Hong Kong Council of Social Service (n 3) 5.
- ²¹ Senior Citizen Home Safety Association, 'Services for the Ethnic Minorities' (Senior Citizen Home Safety Association, 2014) <<http://www.schsa.org.hk/remc/#anch2>> accessed 27 July 2015. Compare with their mainstream services: Senior Citizen Home Safety Association, 'Senior Citizen Home Safety Association Homepage' (Senior Citizen Home Safety Association 2015) <<https://schsa.org.hk/en/services/pel/introduction/index.html>> accessed 27 July 2015.
- ²² Hong Kong Council of Social Service, 'Policy Bulletin No. 15: 少數族裔在香港' (Hong Kong Council of Social Service, October 2013) <<http://www.hkcss.org.hk/uploadFileMgmt/pb15.pdf>> accessed on 20 July 2015, see page 20 citing Dr. Raees Baig.
- ²³ Food and Health Bureau within the Department of Health & Hospital Authority, 'Progress Report on "Motion on "Formulating a medical policy to support ethnic minority elderly people" at the Legislative Council meeting on 27 November 2013"' (Legislative Council, 27 November 2013) <<http://www.legco.gov.hk/yr13-14/english/counmtg/motion/cm1127-m3-prpt-e.pdf>> accessed 25 July 2015.
- ²⁴ Hong Kong Council of Social Service (n 3) 22.
- ²⁵ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 51.
- ²⁶ Commission on Poverty, '為少數族裔人士提供的職業教育、培訓/再培訓及就業支援服務' (Poverty Relief, 15 April 2015) <http://www.povertyrelief.gov.hk/pdf/sngtf_20150415_05-2015.pdf> accessed 20 July 2015.
- ²⁷ Commission on Poverty (*ibid*) para 10-14.
- ²⁸ Hok Bun Ku and others, *A Research Report on the Employment of South Asian Ethnic Minority Groups in Hong Kong* (Centre for Social Policy Studies within the Department of Applied Social Sciences at the Hong Kong Polytechnic University 2006) 26.
- ²⁹ Hong Kong Christian Service, '居住本港的南亞裔人士對政府及社區資源認識的意見調查' (Hong Kong Christian Service, 6 December 2005) <<http://www.hkcs.org/commu/press/2005press/press20051206.html>> accessed 25 July 2015.
- ³⁰ Hong Kong SAR Government, 'LCQ18: Employment Services for the Ethnic Minorities' (Hong Kong SAR Government, 13 November 2013) <<http://www.info.gov.hk/gia/general/201311/13/P201311130454.htm>> accessed 20 July 2015.
- ³¹ Hong Kong Council of Social Service, 'Parents Involvement for Children's Educational Advancement' (Hong Kong Council of Social Service, May 2010), <http://www.hkcss.org.hk/uploadfileMgmt/0_2014612145312.pdf> accessed 25 July 2015.
- ³² Oxfam (n 18) 9.
- ³³ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 5) 5.

- ³⁴ Commission on Poverty, ‘民政事務總署加強少數族裔融入社區的支援服務’ (*Poverty Relief*, 15 April 2015) <http://www.povertyrelief.gov.hk/pdf/sngtf_20150415_06-2015.pdf> accessed 20 July 2015.
- ³⁵ Race Relations Unit within the Home Affairs Department, ‘Community Support Teams for Ethnic Communities’ (*Home Affairs Department*, 27 January 2014) <http://www.had.gov.hk/rru/english/programmes/programmes_comm_cstec.html> accessed 25 July 2015.
- ³⁶ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 48.
- ³⁷ This information was shared with the author on the condition of anonymity and the source cannot be cited.
- ³⁸ Puja Kapai, ‘Understanding and integrating cultural frames of reference in the development of intervention strategies to address domestic violence among ethnic minority victims and perpetrators of domestic violence’ (*The University of Hong Kong’s Centre for Comparative and Public Law*, 2015) <www.hku.hk/ccpl/publications> accessed 7 August 2015.
- ³⁹ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 30.
- ⁴⁰ Commission on Poverty (n 34) 21-23.
- ⁴¹ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 5) 4.
- ⁴² Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 5) 4.
- ⁴³ Hong Kong SAR Government (n 30).
- ⁴⁴ Hong Kong SAR Government (n 30).
- ⁴⁵ Note the discussion of the importance of using terms in determining data and its relevance for policy making and in ensuring an accurate understanding of the situation of ethnic minorities in Hong Kong, discussed in the Introduction of this Report.
- ⁴⁶ HK Government, ‘Response to LCQ18: Annex II’ (*Hong Kong SAR Government*, 2014) <http://www.info.gov.hk/gia/general/200505/04/lcq18_e2.pdf> accessed 25 July 2015.
- ⁴⁷ Nicky Burrige, ‘HK banks refuse accounts to poor and ethnic minorities’ *South China Morning Post* (Hong Kong, 18 February 2013) <<http://www.scmp.com/business/money/article/1150993/local-banks-refuse-accounts-poor-and-ethnic-minorities>> accessed 20 July 2015.
- ⁴⁸ Lana Lam, ‘Hong Kong’s equalities watchdog for first time tackles banks’ treatment of ethnic minorities’ *South China Morning Post* (Hong Kong, 30 May 2015) <<http://www.scmp.com/news/hong-kong/education-community/article/1813049/hong-kongs-equalities-watchdog-meet-bank-staff>> accessed 20 July 2015.
- ⁴⁹ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 43-45.
- ⁵⁰ Hong Kong Catholic Commission for Labour Affairs & Catholic Diocese of Hong Kong Diocesan Pastoral Centre for Workers (Kowloon) (n 4) 40.
- ⁵¹ Crabtree (n 6).
- ⁵² *ibid* 371-372.
- ⁵³ *ibid* 373.
- ⁵⁴ *ibid* 374-376.

CHAPTER 6: MARRIAGE, FAMILY AND DOMESTIC VIOLENCE**OVERVIEW**

Owing to cultural and religious influences, ethnic minorities tend to get married at a younger age compared to their local counterparts. Some of these marriages are ‘arranged marriages’ where the prospective bride and groom are introduced to each other with a view to future courtship on their parents’ or family’s recommendations, whilst others of these are reportedly, ‘forced marriages’ which entail subjecting a child’s free will and choice to their parents’ dictates. The adverse effects of early and forced marriages (prospects for senior secondary school and higher education, early maternal health and safety) are under-researched in Hong Kong. More crucially, the extent of the prevalence of these practices within the ethnic minority communities in Hong Kong is unknown. Also, teachers at schools give insufficient attention to these issues failing to notice the tell-tale signs when they arise (typically repeat and long absences until sudden and premature withdrawal from upper secondary school). Those who want to help unfortunately, know too little about cultural specificities to be able to help in any meaningful way without worsening the situation.

Another prominent problem that may be characteristic of some ethnic minority families is ‘male dominance’ or the patriarchal figurehead of the family. Although this may be an attitude that is prevalent within many communities, it is distinctly prominent among ethnic minority communities in Hong Kong and is in fact, reinforced by the local culture, which places large value on filial piety.

Ethnic minority women are particularly vulnerable to subjugation by their male counterparts in the family and clear inequality between men and women is apparent. Women and girls are almost always valued less than men and boys and this view, even in those ethnic minority communities where the women are more educated than their male counterparts.

In some cases, women are victims of violence particularly when there are disputes, suspicions of disloyalty or what is perceived to be a violation of societal, cultural or religious codes. The strong sense of community and family unity that binds ethnic minority families together also characterizes the loyal relationship between ethnic minority parents and their children. Some parents, however, have a weak sense of what child protection entails.

There is no data available for cohabiting partners or LGBT families in the ethnic minority population. This does not mean that such family units are not living together. This gap and the increasing tendency of couples to live out of marriage requires that the Government document such data. Our definition of marriage below is only restricted to heterosexual marriage (as per the Hong Kong Population Census).

A. General Statistics***A1. Marital Status and Age***

According to the 2011 Population Census¹, there were 58.3% of ethnic minorities whose status was “now married,” which was comparable to the 57.7% of their Chinese counterparts.

Table 6.1 below shows the marital status of ethnic minorities and that of the whole population aged 15 and over in Hong Kong in 2011.

Table 6.1 Marital status of ethnic minorities and that of the whole population aged 15 and over in Hong Kong in 2011

	Never Married	Now Married	Widowed	Divorced	Separated
Ethnic Minorities	34.1%	58.3%	2.2%	4.3%	1.0%
Whole Population	31.6%	57.7%	6.2%	3.9%	0.5%

Source: Census Thematic Report, Table 4.1

A further breakdown by ethnicity shows that the percentage of “now married” is higher if we focus only on ethnic minorities. The percentage of “widowed/divorced/separated” is much lower than the corresponding category for the whole of Hong Kong’s population. Of particular significance is the very low percentage of Pakistani population that is listed as widowed, divorced or separated (2.1% compared to 10.7% of the whole population).

The latter difference suggests that ethnic minority couples are either younger (explains low percentage of “widowed”) or are able to maintain stable and long-lasting relationships.

Table 6.2 below shows the percentage of “now married” and “widowed/divorced/separated” among South/ South-East Asians and that among the whole population aged 15 and over in Hong Kong in 2011.

Table 6.2 Percentage of “Now Married” and “Widowed/Divorced/Separated” Persons of South/ South-East Asian Background Aged 15 and Above Compared to the General Population in Hong Kong in 2011

Ethnicity	Now Married	Widowed/ Divorced/ Separated
Indonesian	52.7%	6.9%
Filipino	54.7%	9.4%
Indian	73.9%	4.2%
Nepalese	74.3%	4.6%
Pakistani	75.7%	2.1%
Whole population of Hong Kong	57.7%	10.7%

Source: Census Thematic Report, Table 4.1

Furthermore, given that ethnic minorities have a much younger median age than that of the whole population,² the higher percentage of persons “now married” also indicates that ethnic minorities tend to marry at a younger age than local Chinese. This is consistent with the aforementioned inference that ethnic minority married couples tend to be younger.

A2. Family Size and Characteristics

Although household size does not necessarily equate family size, the following table suggests a direct correlation between the two. Table 6.3 illustrates that with the exception of Indonesian households, a larger proportion of EM households has 4 persons or above compared to households of the general population³.

Table 6.3 below shows the total number of domestic households among the 6 minority groups with a breakdown by ethnicity and household size in 2011.

Table 6.3 Total Number of Domestic Households Among the 6 Minority Groups Disaggregated by Ethnicity and Household size in 2011

Number of domestic households by ethnicity and by household size in 2011					
	1 person	2 persons	3 persons	4 persons or above	Total
Pakistani	576 (12.5%)	618 (13.4%)	570 (12.4%)	2,840 (61.7%)	4,604 (100%)
Nepalese	546 (10.9)	952 (19.0%)	1,277 (25.5%)	2,227 (44.5%)	5,002 (100%)
Indian	1,657 (17.7%)	2,146 (23.0%)	2,274 (24.3%)	3,262 (34.9%)	9,339 (100%)
Indonesian	485 (20.0%)	889 (36.6%)	455 (18.8%)	597 (24.6%)	2,426 (100%)
Filipino	1,535 (19.6%)	2,120 (27.1%)	1,713 (21.9%)	2,452 (31.4%)	7,820 (100%)
Thai	800 (11.3%)	1,911 (26.9%)	1,791 (25.2%)	2,605 (36.7%)	7,107 (100%)
Whole Population	422,676 (17.9%)	615,762 (26.0%)	613,468 (25.9%)	715,296 (30.2%)	2,367,202 (100%)

Source: HKCSS Poverty Situation of South and Southeast Asians

Most ethnic minorities live in nuclear family households composed of a [married] couple with unmarried children. The proportion of such households is especially high among the Pakistani community, at 62%. Except for the Indonesian community, the proportion of households with a lone parent and unmarried children is smaller than that of the whole population. This in part suggests that ethnic minorities’ children are less likely to face issues arising from single-parent upbringing compared to the general population as a whole.

Table 6.4 below shows the household arrangements for different ethnic groups in Hong Kong in 2011, as compared against that of whole population of Hong Kong.

**Table 6.4 Household Arrangements for Different Ethnic Groups in Hong Kong
Compared to the General Population in Hong Kong in 2011**

Ethnicity	Indonesian	Filipino	Indian	Pakistani	Nepalese	Thai	Whole Populati on of Hong Kong
Households composed of a couple	15.2%	11.0%	10.9%	2.7%	8.3%	20.5%	10.6%
Households composed of a couple and unmarried children	26.6%	44.9%	53.3%	62.0%	46.2%	42.8%	51.5%
Households composed of lone parents and unmarried children	10.8%	7.8%	4.8%	5.5%	5.4%	6.5%	10.5%
Households composed of couple and at least one of their parents	0.7%	1%	2%	0.6%	0.9%	1.2%	1%
Households composed of couple, at least one of their parents and their unmarried children	8%	5%	10%	5%	4%	4.1%	7%
Households composed of other relationship combinations	0.1%	0.1%	0.1%	0.2%	0.3%	12.9%	0.2%

Source: Thematic Report, Table 7.3

B. Marriage

B1. Early and Arranged Marriage

Early and arranged marriage is a common phenomenon among South Asians, such as Pakistanis, Indians and Nepalese. Such a practice is influenced by social, cultural and religious traditions. In addition, some ethnic minority parents see marriage as a way out of poverty. They do so by giving their daughter away in marriage in order to lessen the family's financial burden, and with the hope that the girl will be supported in the new family.⁴

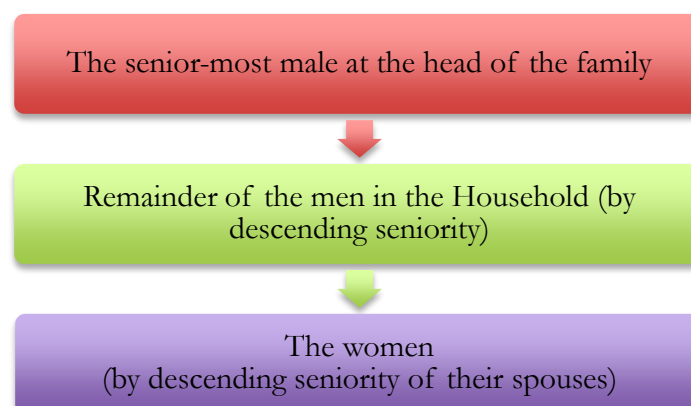
At the same time, even amongst the most well to do ethnic minority families in Hong Kong, however, there continues to be a widespread practice of taking dowry from the bride's family in exchange for the wedding vows. A poor dowry or one which does not meet with expectations of the groom's family can easily attract abuse, verbal and physical and oftentimes, humiliation. This practice and the often-outlandish expectations of dowry lead to unhappy family life, giving rise to disharmony and disputes. Dowry giving in the case of getting a daughter married is clear evidence of the inherent inequality between the girl and boy child.

There is an increasingly greying line between arranged marriages and forced marriages in some ethnic minority communities. Forced marriages involve coercion. , In addition, arranging such marriages for teenagers whilst they are still in school, is unlawful under Hong Kong law and gives rise to complex issues impacting the growth and development of young people, particularly for young girls who end up as young mothers when they marry early.

For example, some ethnic minority youth, especially girls, typically face discontinuation of education because of their parents' traditional belief that education is unnecessary for girls.⁵ Their parents expect them to stay home, learn about managing a household and, at an age deemed appropriate by her family, be coerced to marry.

B2. Male Dominance

Many ethnic minorities subscribe to the traditional belief that women are subordinate to men, in all relationships including the marital relationship. There is typically a hierarchical chain of command:



Hence, when a divergence of views occurs, which mostly arises in the context of financial security and children's marriage affairs, women often find themselves in a vulnerable

position and even end up as victims of domestic violence.⁶ Issues of domestic violence faced by ethnic minority women are discussed in more detail in Part D.

C. Family

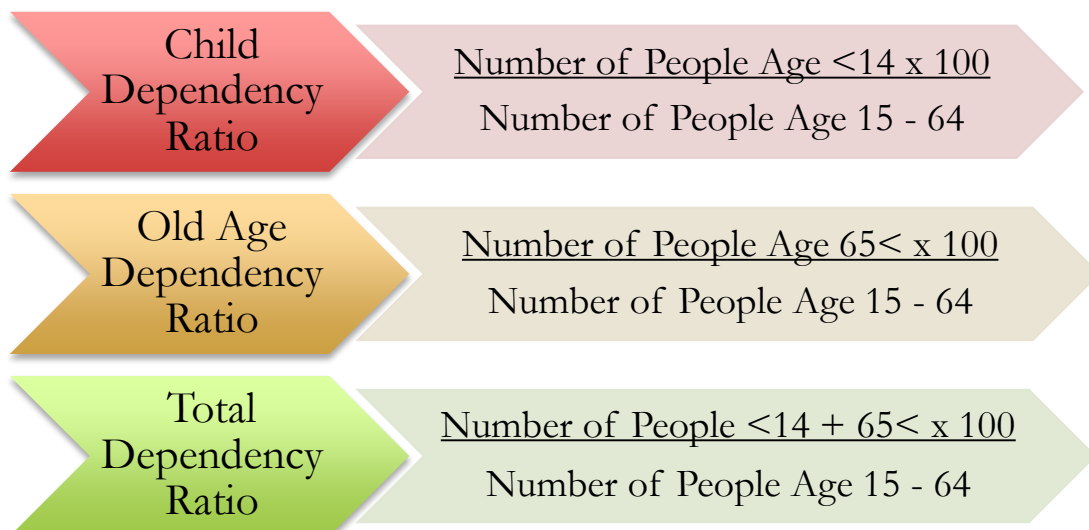
C.1 Dependency Ratios⁷

Table 6.5 Population excluding FDHs, by ethnicity and dependency ratios, in 2011

Age	Dependency Ratios (Excluding Foreign Domestic Helpers), 2011		
Ethnicity	Child Dependency Ratio	Old Age Dependency Ratio	Total Dependency Ratio
Filipino	24	4	28
Indonesian	11	12	23
Indian	31	10	41
Nepalese	29	3	32
Pakistani	70	6	75
Total for Hong Kong population	16	19	35

Source: Numbers calculated based on figures generated for EM population by age using the Census and Statistics Department Interactive Data Dissemination Service

The dependency ratio is one way of looking at the economic burden of children, and elderly individuals, on the current productive population.



It is calculated by looking at the number of elderly (age 65+) and children (under 15) that need to be supported by those in their productive years (age 15- 64). A higher ratio

represents a higher burden on those belonging to the productive population group, which has to “finance” those who are not productive.

The dependency ratio can be further divided into the child dependency ratio and the old age dependency ratio.

The child dependency ratio represents those under 15, who need to be supported by those in their productive years. The child dependency ratio of ethnic minorities, with the exception of Indonesians, is significantly higher than that of the general population as a whole. This indicates that ethnic minority families have a heavier financial burden than families of the general population in terms of the need to financially support their children. However, these children also represent a source of future productivity of Hong Kong.

The old age dependency ratio represents those over 65, who need to be supported by those in the productive population group. This group becomes less productive over time. The elderly dependency ratio of ethnic minorities is significantly lower than that of the general population as a whole. Nevertheless, elderly care for ethnic minorities is an area of concern. It is encouraging to see that the Personal Emergency Link Service was recently extended to ethnic minority elderly by way of a pilot programme⁸. However, elderly care homes in Hong Kong are predominantly catered to Chinese elderly, which is likely to present cultural barriers in terms of meeting all relevant needs of ethnic minority elderly. There is no data documenting how many ethnic minority elderly are currently staying in elderly homes. More documentation efforts are needed in this respect.

C2. Ethnic minority parents and their children

A research conducted by Against Child Abuse in 2012 reveals that ethnic minority parents had insufficient awareness over protecting their children from abuse, despite generally maintaining good relationships with their children.⁹ The following are key observations from the research:

Table 6.6 Summary of the key observations in relation to the relationship between EM parents and children

Percentage of parents who would describe their relationships with children as ‘very good’ or ‘good’		86.5%
Percentage of parents who would praise their children and show acts of encouragement to them		81.7%
Adoption of corporal punishment as a parent tool		
	Percentage of parents who would slap their children in the face	44%
	Percentage of parents who would hit their children with hard objects	9%
Failure to see the need to make sure that children are accompanied at home		
	Percentage of parents who had left their children alone at home	Over 25%

	Percentage of parents out of the 25% that said leaving children alone at home was due to work	About 66%

Source: Against Child Abuse Research (2012)

In addition, some parents do not appreciate the importance of parental support to their children in the education process, especially as against the uphill battle of learning Chinese. Research indicates that efforts paid by parents had a positive correlation with children's Chinese language performance and satisfaction in school life as well as living in Hong Kong.¹⁰ Yet, only 50% of the parents thought that they had the responsibility to help their children with Chinese.

D. Domestic Violence

D1. Ethnic Minorities and Domestic Violence

There is a critical lack of research on the domestic violence experiences of ethnic minority victims in Hong Kong ("EM Victims"). There are only 3 pieces of research conducted to date on this:

- 1 • In 2006, The Hong Kong Polytechnic University Department of Applied Social Sciences and the Hong Kong Christian Service Project South Asians Support Alliance conducted a survey with 182 Nepalese, Pakistani and Indian women and conducted an in-depth interview with 25 of them (the "2006 Research") on their social situations.¹¹
- 2 • Jenny Chingkhannem Tonsing interviewed 14 Pakistani, Indian and Nepalese women on their experiences of partner abuse (the "2012 Study").¹²
- 3 • The author, Puja Kapai, recently completed the most comprehensive qualitative mixed methods study on EM Victims and the services they received (the "2015 Study").¹³ A total of 51 respondents participated, including EM Victims, social workers, service providers, healthcare professionals and ethnic minority women who are not domestic violence victims.

In 2013, 4.7% (180) of the total domestic violence complaints recorded by the Social Welfare Department (“SWD”) related to EM Victims. Between April and December 2013, 3.4% (125) of the total cases recorded by the Family and Child Protection Services Unit (FCPSU) of SWD related to EM victims¹⁴. It is noteworthy that the SWD and FCPSU only started documenting data in relation to EM victims as of 2013.

Table 6.7 Cases and Complaints relating to EM victims recorded by the SWD and FCPSU

	Social Welfare Department	Family and Child Protection Services Unit
Complaints/ Cases relating to EM victims of ethnic minority background	180	125
Total Complaints/ Cases	3836	3695

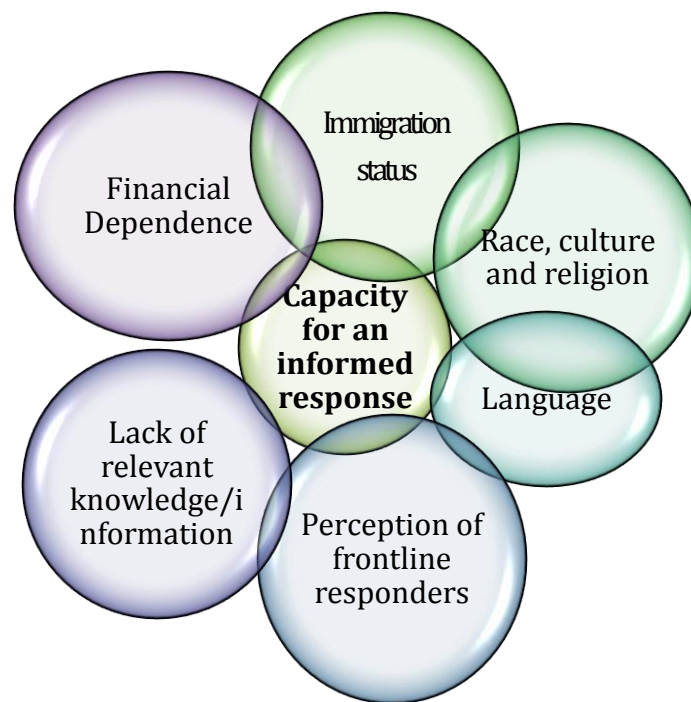
Source: Financial Committee of the Hong Kong Legislative Council

The above figures are significant in light of the fact that ethnic minorities account for 6.38% of the population in Hong Kong according to the 2011 Population Census. The situation warrants urgent attention, and even more so when we take into account the fact that EM Victims typically underreport abuses, revealing a reluctance or lack of ability to seek assistance. According to the 2015 Study, none of the respondents sought medical attention. Only 2 out of 11 of them sought police or legal assistance. According to frontline agencies, EM Victims seldom seek medical advice or divorce. In contrast, they often go back to the abuser.

D2. Ethnic minority victims and their help seeking behaviour

EM Victims in Hong Kong are reluctant to seek external help when they face domestic violence. None of the EM Victims participating in the 2015 Study sought medical attention, and only two EM Victims sought police assistance, legal protection, or service providers’ assistance. A quarter of the EM Victims said they would share their situation with friends or neighbours whilst half of them said they would share with their families. However, the experiences of sharing with friends or family were sometimes unpleasant because they were often persuaded to stay with their abusive partners. This reflects a lack of confidence in external assistance that may be available in general.

In order to meaningfully explore the issues faced by EM Victims, it is imperative to identify the reasons behind the underreporting of domestic violence by EM Victims and factors that shape their help-seeking behaviour. As illustrated by the chart below and will be further elaborated in the discussion below, the help-seeking behaviours of EM Victims are shaped by their race, culture and religion, language barrier, financial dependence on their partners, immigration status, perception of the legal system and frontline responders to domestic violence, and lack of relevant legal and practical knowledge.



Race, Culture and Religion

Race, culture and religion complicate the help seeking behaviour patterns of EM Victims. For instance, Indian women believed that reporting one's abusive husband to the police is contrary to the essence of being a good wife, a label predicated on being self-sacrificial as opposed to self-preserving¹⁵.



Many EM Victims of domestic violence are reluctant to seek external help and/or leave their abusive husbands due to various reasons¹⁶:

Marriage

- Centrality to family life
- Cultural marker of EM women's identity
- Family may advise to tolerate the abuse for the sake of the marriage

Divorce

- Stigma within close & interdependent community
- Perception of women as being responsible for the breakup of family
- Lack of support from family and relatives

Fear

- Loss of face in the community
- Gossip in the community
- Blame/shame as cause of violence that breaks the family apart

Children

- Impact on their future prospects
- What and how to tell them in the event of divorce?

A Pakistani lady, Sana, recalled her experience of being a victim of domestic violence¹⁷:

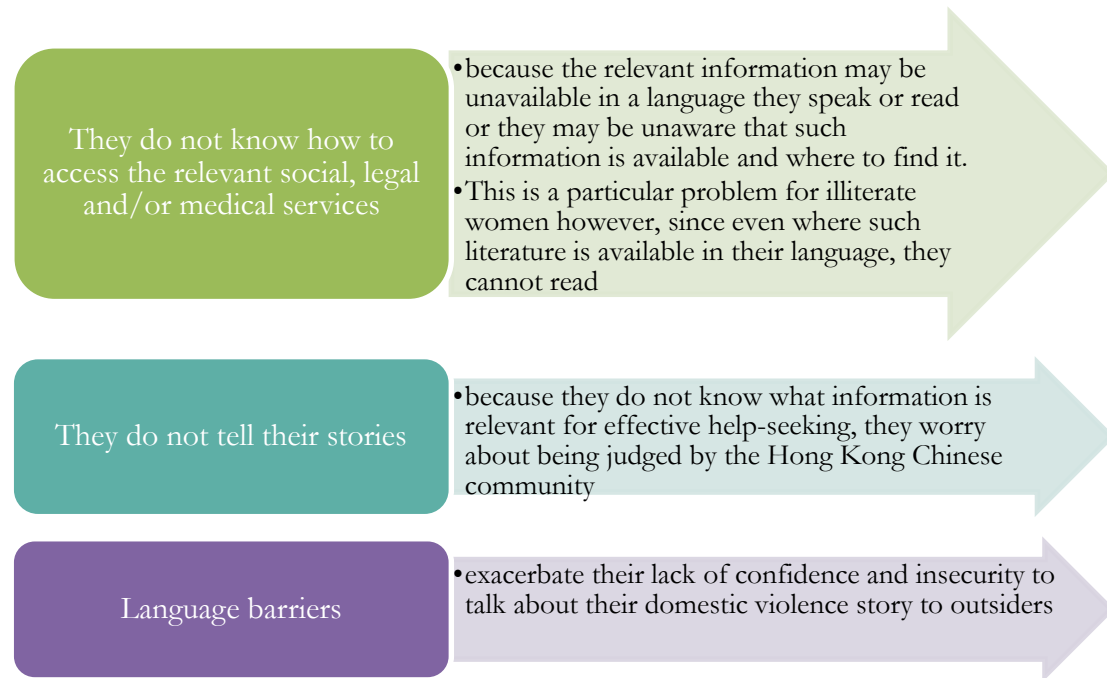
“My ex-husband used to beat me for almost three years, but I tended to **tolerate because of strong objection from my family**. Even when I finally divorced due to my ex-husband’s aggression to my sons, **my mother hadn’t communicated with me for two years. I even hesitated of going back to my own village in Pakistan because of gossips in the neighbourhood**. Some of the Pakistani wives rejected me from their homes as they rumoured that a divorced woman might tempt their husbands.”

The 2015 Study affirms these findings from the earlier two studies,, where EM Victims believed that sharing their experiences of abuse with any outsider would attract blaming and shaming, whereas separation or divorce are instigators of social isolation in their community and without community, they have nothing in Hong Kong to belong to. They measure their ‘success’ in marriage and in life by reference to their community’s verdict of them. Further, they view seeking assistance from social workers as stigmatizing as it implies the lack of self-sufficiency and self-reliance.

Language

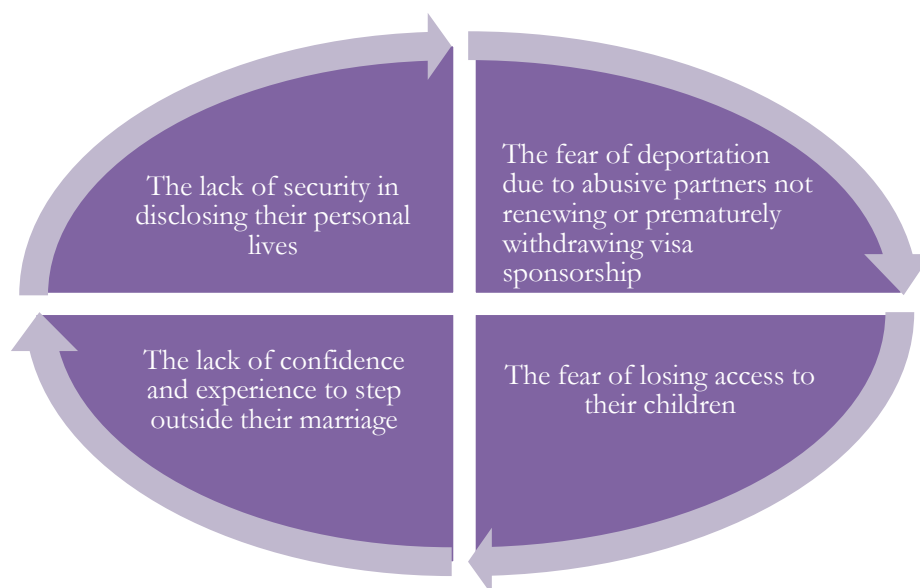
Language impacts access to legal and social services for domestic violence victims and potentially limits ethnic minority women's ability to live independently of their partner because they are unable to integrate into the wider social context (employment, education, etc.) without the requisite language skills¹⁸.

Language barriers faced by EM Victims of domestic violence hinder their ability or willingness to seek assistance:



Immigration Status

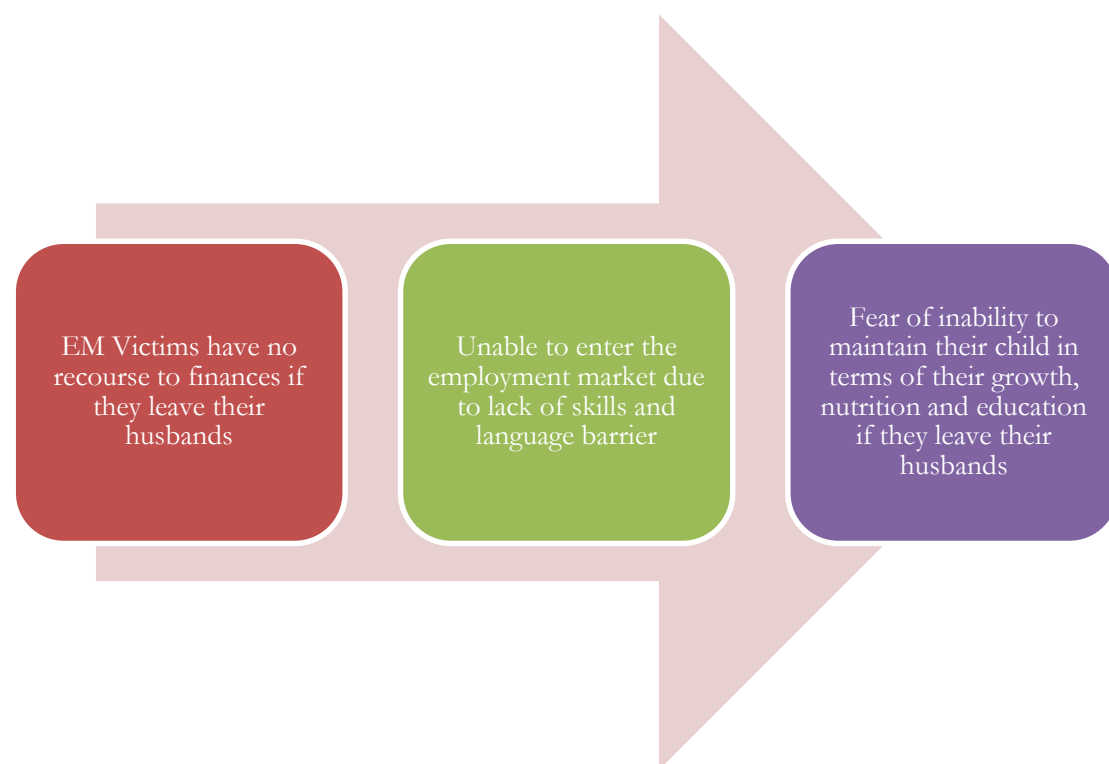
The Immigration Status of EM Victims renders them reluctant to report abuse in multiple ways¹⁹.



EM victims participating in the 2015 Study, including those with resident status in Hong Kong, believed that would be stripped of their status in Hong Kong, forced to return home, and separated from their children forever. Even if the complaint results in imprisonment of their husbands, EM Victims worry about the family's future and therefore are reluctant to report.

Financial Dependence

The lack of financial independence of EM Victims also renders them more vulnerable to abuse and more reluctant to report abuse. For instance, most of the participating EM Victims in the 2015 Study were unemployed. Only 3 held employment and they were all part-time employment. The following concerns arising from the lack of financial independence deters EM Victims from reporting abuse:



Awareness of Legal Rights and Perceptions of Discrimination

In the 2015 Study, EM Victims have a very low level of awareness of the relevant laws on discrimination and domestic violence. The Study also revealed that while only 1 EM Victim was aware of anti-discrimination laws, one third of them experienced discrimination by service providers of law enforcement personnel. Affirming these views, front-line responders rated the lack of knowledge of legal rights and perception of discrimination as major barriers to access services. Further, nearly 20% of frontline responders believed that EM Victims should not be entitled to the same level of access to social services as the dominant population group. EM Victims reported that frontline responders asked them to return to their home countries when they sought help.

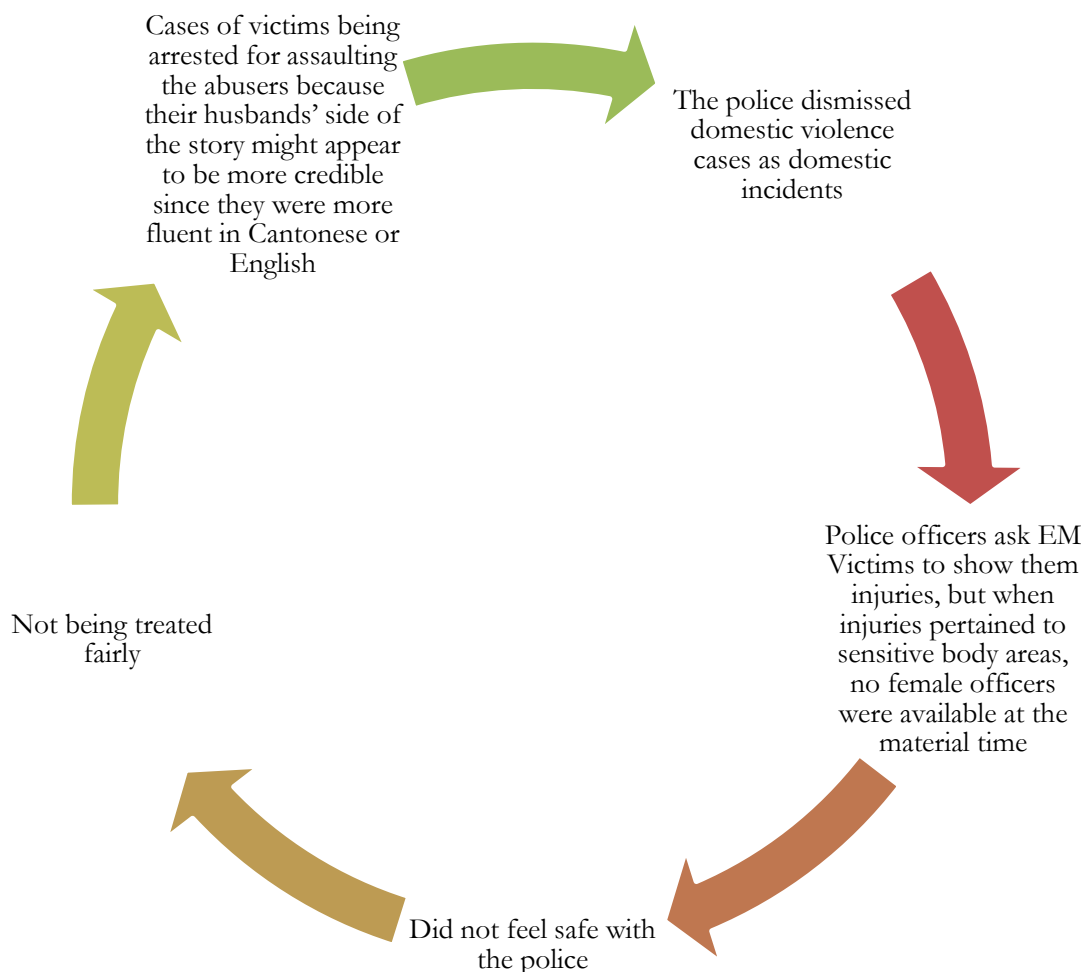
Perceptions of the legal system, the Police and Service Providers***Legal System***

The level of confidence in the legal system of EM Victims in the 2015 Study was low. While “determining the guilt of the abuser” was one of the biggest expectations of the legal system, they rated their satisfaction with the legal system in terms of achieving this goal very low.

The Police

While EM Victims participating in the 2015 Study were fairly satisfied with the police’s performance in enforcing the law, there is still room for improvement in terms of how approachable the police is and whether they treat everyone fairly.

In-depth interviews revealed that EM Victims in Hong Kong had the following perceptions of the police:



One EM Victim recalled that after approaching the police for help in respect of violent attacks by her husbands, the police did not attempt to communicate with her to ascertain her side of the story, and merely advised her through her father-in-law. Another two reported that they were advised to return to their husbands.

It is noteworthy that from the point of view of frontline service providers, they do not regard lack of confidence in or fear of law enforcement agencies as a major obstacle to EM Victims' access to protection. This in fact brings in the importance of not assuming everyone knows how to access police service or have confidence in approaching the police.

Service Providers

In the 2015 Study, it is alarming that none of the EM Victims reported that their needs and concerns were understood or that they were treated accordingly by service providers. The incompetence of frontline responders in tackling with domestic violence cases faced by EM Victims will be discussed in detail in section D3.

Not only did the aforementioned factors undermine the help-seeking behaviour of EM Victims, but they also further isolate them from the rest of the community, thereby perpetuating the vulnerabilities of EM women²⁰. Such social isolation and lack of social support network further hampers their ability or willingness to seek external help. In addition, the fear of being discriminated against in the event of attempting to live life on their own further breeds ethnic minority women's dependence on their abusive partners²¹.

D3. Institutional incompetence of Frontline Responders

Frontline responders for domestic violence victims include social workers, police officers, health-care providers, shelter staff, etc. The following are a list of major services currently available for domestic violence victims in Hong Kong²²:

- The Family and Child Protective Services Unit are manned with social workers that serve family members suffering from spouse/cohabitant battering. It receives reports of abuse and reach out to victims to assist with crisis intervention, arranging medical examination, investigation of abuse, counselling services, referral for services including financial assistance and compassionate rehousing, group support services and preventive services to raise public awareness of domestic violence;
- Integrated Family Service Centres (IFSC) provide welfare needs of families, including family life education, parent-child activities, counselling and referral service for individuals or families in need;
- Medical social workers in public hospitals or other organizations provides counselling service and arrange referrals for other services based on the needs of the victims;
- Tsui Lam Centre of Po Leung Kuk provides Victim Support Programme to domestic violence victims in different districts, aiming to provide informational and emotional support for domestic violence victims to address their psychological needs;

- 5 refuge centres are available in Hong Kong that provides temporary accommodation and support services to domestic violence victims;
- SWD operates a 24-hour Hotline service for domestic violence victims to obtain timely counselling and support services;
- The CEASE Crisis Centre operated by the Tung Wah Group of Hospitals and the Family Crisis Support Centre operated by Caritas-Hong Kong provides crisis management and intervention services for domestic violence victims

Despite the availability of services catering for domestic violence victims, most domestic violence services lack sensitivity to the cultural attributes of victims, which have a significant impact on their help-seeking behaviours and in turn the relevance of these services in terms of offering them meaningful access.²³

(i) General Lack of Cultural Sensitivity and Trust

Although services providers such as the CEASE Crisis Centre claimed that they provide services regardless of victim's race, the 2015 Study reveals that frontline service providers²⁴, social workers and health-care providers in Hong Kong for domestic violence victims do not consider themselves as culturally competent and adequately equipped to handle or well informed about the needs of EM Victims. This results in a series of referral for domestic violence cases involving EM Victims, which further undermines their trust and confidence in protection services, and thereby further hampering their willingness to seek external help.

Amongst the service providers in Hong Kong, only 20% were aware of women's rights, 55% were aware of equality laws, 40% were aware of domestic violence laws and a glaringly low 12.5% were familiar with relevant criminal provisions. This is worrying as frontline service providers could put clients at risk by providing unreliable or misguided advice. It is unlikely that they can discharge the important role of advising safety response plans for EM Victims given their critical lack of relevant knowledge.

One significant shortcoming of the quality of service identified by EM Victims in the 2015 Study is insensitive question and advice given by service providers. Predictably, the same study shows that service providers did not identify the same as a major shortcoming of their services.

In this respect, the Association for Concern for Legal Rights of Victims of Domestic Violence ("ACLRV") noted that there were complaints about social services staff and police officers insisting on resolutions that are incompatible with their cultural and value systems (e.g. insisting on a divorce). It was found that social workers from the SWD are less likely to write a recommendation for urgent housing if the EM Victim refuses to file for divorce. Similarly, these EM Victims lost support of shelter staff and social workers when they were unwilling to file for a divorce²⁵.

The 2015 Study also noted the same problem where certain steps are assumed as basic and logical steps that would have been taken by "genuine victims". Several EM Victims reported that social workers, shelter staff and frontline NGO workers insisted on victims filing for divorce before they were willing to provide the victims with assistance in terms of seeking compassionate housing, education for their children and access to other

basic needs. Instead of operating on such stereotyped and unfounded assumptions, service providers should ensure that all options are open to EM Victims.

(ii) *Incompetence of the Police*

The police had a new classification system for domestic violence cases since January 2009, where a new category named “family matters” was established to encapsulate all non-criminal family matters. There were concerns about the drastic decrease in the number of domestic violence cases after the new classification system was established, in particular, whether the police are competent to carry out the classification for cases involving ethnic minorities²⁶.

A study by Leung Lai Ching showed that gender and ethnicity are two interlocking factors that have an influence on police response in domestic violence issues²⁷. According to Leung’s study, stereotypes of immigrant women include perceptions that they are a “burden on society” with “low earning ability” and “unreliable”. As most ethnic minority women are also immigrants, the police are likely to be affected by such stereotypes and be sceptical of their accounts of domestic violence. Even if other ethnic minority women are not immigrants, the mainstream perception of them as “non-local”, and that they earn a lower income than the Chinese population in Hong Kong, also render them susceptible to be similarly stereotyped as unreliable.

(iii) *Language Barrier and Unprofessional Interpretation Services*

Language barrier is a big obstacle that impedes EM Victims’ access to assistance. It is therefore important to ensure that information about support services is available to these victims in an accessible language and medium. While the information on services for DV victims on SWD’s website is provided in ethnic minority languages, many other information provided by service providers are not available in ethnic minority languages. For instance, in 2014, the SWD produced new Announcements in the Public Interest (APIs) on preventing domestic violence to raise awareness that domestic violence cause result in lasting psychological damage to children. However, these APIs are not available in ethnic minority languages²⁸.

The quality of interpretation service is another live issue. Being able to speak in one’s native language not only facilitates the conveying of messages, but it also makes victims feel safer and more at ease. For instance, EM Victims in the 2015 Study were worried about confidentiality issues and the spread of gossips since the interpreters know them or their families personally. In public hospitals, since there was a 4-hour waiting period for interpreters, nurses or doctors would sometimes encourage them to have their husbands or friends to serve as interpreters. EM Victims were also doubtful about the reliability of interpreters. One EM Victim reported that the interpreter blamed her for breaking up her family rather than discharging the role of an interpreter.

It is also alarming that service providers in Hong Kong do not consider that they have the duty to provide services in an accessible language to EM Victims. Despite the existence of the Telephone Interpretation Service (“TIS”) and Escort Interpretation Service (“EIS”) provided by the NGO CHEER (a government funded interpretation service for ethnic minorities), SWD’s usage of such interpretation services in 2013 to 2014 is glaringly low (3.5% of the total TIS and 10% of the total EIS)²⁹. Interpretation service is also provided by the Hong Kong Translingual Service (HKTS). Nevertheless, the SWD

and IFSC's usage of HKTS from April 2014 to March 2015 is extremely low. They only used the on-site interpretation services 12 times and telephone interpretation service once.

Leung Lai Ching and RainLily, an NGO that supports survivors of sexual violence, noted that the interpretation service provided by the police to ethnic minority sexual violence survivors lacked clarity. At times, the ethnic minority survivors could not understand the interpreters, and this called into question the accuracy of police statements³⁰.

Further, the ACLRV and the 2015 Study noted the significance of the therapeutic effects of an interrupted exchange in a direct one-on-one counselling. With the presence of an interpreter, such effects are diminished³¹. This calls for the need for social workers of ethnic minority background to ameliorate the language and cultural impediments affecting EM Victims. Frontline service providers with ethnic minority background will also be more culturally competent to work with EM Victims from similar background. However, there is a lack of trained social workers who can speak ethnic minority languages in Hong Kong. In fact, Hong Kong's first 3 ethnic minority social workers only recently graduated in 2014.

The 2015 Study reported that it is worrying where service providers sought to rely on community members of the same background as the EM Victim to assist with interpretation in an inappropriate way, for instance, by asking the abusive husband for help. This has the effect of deterring EM Victims from seeking external help in the future.

(iv) Insufficient and culturally-insensitive shelter services

Accommodation issues of EM Victims also warrant serious attention, since they often fail to have access to public housing and shelter services are not culturally sensitive. The SWD operates 5 shelters with 260 spaces to accommodate women and children affected by domestic violence. Other shelters are operated by local NGOs such as Harmony House Hong Kong ("HHHK"), which provides 65 to 70 spaces. The ACLRV and HHHK expressed concern about the critical shortage of shelter spaces for victims of domestic violence, given the total number domestic violence cases received by SWD in 2013 totals almost 4000. The average occupancy rate of HHHK in 2013/14 is 110.1%³². While there is little effort to document EM Victims' experiences of using shelter services, ACLRV noted the following problems that inhibit the access of victims of ethnic minority background to shelter services³³:





According to the 2015 Study, the unsurvivability of EM Victims in shelters was one of the major shortcomings identified by the service providers. Shelters with predominantly Chinese women are often difficult environment for EM Victims to live because of language barrier, cultural differences, communication problems, lack of respect for their dietary needs and discrimination.

(v) *Training and Specialist Agencies*

Only half of the participating organisations in the 2015 Study reported that their staff underwent regular cultural sensitivity or competence training. The lack of funding and proper training, coupled with the lack of third tier organizations that works on policy research and training and capacity building, undermined the quality and usefulness of any available training. Further, some training materials were themselves discriminatory and contributed to the perpetuation of stereotypes about EM victims. However, some frontline responders felt that cultural competence training would not help because it was simply impossible to understand minority cultures.

To address the cultural competence issue, Ethnic Minority Domestic Violence Specialist Agencies were established in the UK with staff from culturally similar background as the EM Victims to address their specific needs, raise awareness in the ethnic minority community and build a strong support network for EM Victims. In Hong Kong, there is only one ethnic minority specialist agency in Hong Kong that promotes social integration amongst deprived Nepalese, and even so it is not targeted at addressing the needs of domestic violence victims³⁴.

KEY OBSERVATIONS

The rate of divorce and separation seems to be low. This may, however, be attributed to social and cultural stigma associated with divorce and separation in these communities. Alternatively, it may be due to the fact that woman would be unlikely to leave in the absence of sufficient education and with the high cost of living in Hong Kong, particularly with children who would be disadvantaged as a result. This financial dependence is frequently omitted from consideration when dealing with instances of domestic abuse and violence.

The incidence of forced marriage in Hong Kong is under-researched; however, we are sure that it exists and that in some cases it involves underage children. Child dependency of ethnic minorities is also concerning, as it is significantly higher than that of the general population as a whole. This indicates that ethnic minority families bear a heavy financial burden in terms of financially supporting their children. However, these children also represent a source of future productivity of Hong Kong.

Ethnic minorities tend to have larger households than their local counterparts and many live in joint families. This give rise to pressures given numerous limitations in housing, the lack of support services and the lack of adequately and appropriately trained professionals to assist with children, family disputes and domestic violence. Cultural and religious contexts make it difficult for these families to resolve their personal issues through simply accessing the existing services, since they require a tailored approach that takes into account their cultural and religious considerations in terms of actions and outcomes that are acceptable to them personally and in the eyes of their community.

Women's responses to domestic violence are culturally constructed; whereas in contrast, services provided for ethnic minority domestic violence victims are informed by the dominant culture, resulting in services that are not accessible and that do not offer meaningful help for ethnic minority victims.

Current service providers do not appear to be culturally competent to handle the particular needs of ethnic minority domestic violence victims. In some situations, inappropriate suggestions and advice is given that is either incompatible with the beliefs or traditions of ethnic minorities, or implies a set of pre-requisites before accessing any assistance.

The data on ageing in Hong Kong is lacking: there is insufficient information around questions of care givers and care homes. The issue also spans wider than simply ageing into debates around spaces for burial and cremation rites, as well as the burial instructions that are often specific to ethnic minorities, cultures and religions.

More research is also needed around cohabiting partners or LGBT families in the ethnic minority population. This data does not exist, but its absence should again not be interpreted to mean that there are no such minorities in Hong Kong. The

Another area where further research is needed is that of sex before marriage, as we see an increase in the numbers of non-fully Chinese children at adoption homes. The significance of this is not clear as there is a lack of data when dealing with the subject.

Families where children are in need of special education have also been poorly researched. Further research would require access to school places and the exploration of what additional resources would be needed to support them. These children face a social stigma and it is not evident whether they or their guardians are aware of their legal rights.

High sex ratios of males to females among those aged under 15 in particular ethnic groups suggests the need to examine and understand whether there is a preference for male births among some ethnic minority communities. Also under-researched is the extent to which, if at all, female genital mutilation is practiced in Hong Kong as a family rite or ritual.

RECOMMENDATIONS

1. Professional interpretation services should be provided in all parts of the help-seeking process of domestic violence victims
2. Better training should be provided for schoolteachers and school social workers that are in the best position to discover and understand more about forced marriage issues among children.
3. One stop information centres providing guidance on how to access different services (including social workers, medical services, shelter services) with information in minority languages should be established in districts with higher concentrations of the ethnic minority population and widely publicised.
4. Training for frontline responders, including the police and service providers in human rights and cultural sensitivity when handling domestic violence amongst ethnic minorities.
5. Government should dedicate resources to empower ethnic minority women in vocational training or continued education so that they can gain independence and open themselves up to more options when they face domestic violence problems.
6. Separate shelters for victims of ethnicity minority background should be established to cater for their cultural background and needs and provide targeted and culturally competent solutions and assistance, in addition to improving the cultural sensitivities of the staff of existing shelters;
7. Multi-agency response network with routine cooperation between police, health services, legal profession, government agencies and NGOs is likely to improve the quality of domestic violence services for ethnic minority victims, especially preventive strategies and cognitive behavioural therapy and counselling.
8. Establishing specialist agencies for intake of ethnic minority victims of domestic violence, such as those in United Kingdom, to improve cultural intelligence and competence to handle the needs of ethnic minority victims and empower them in terms of financial independence, literacy, vocational training and social integration.
9. The government has obligations of due diligence under CEDAW to take active measures to prosecute and punish perpetrators in accordance with the law, including ordering appropriate punishment to deter domestic violence, and providing for the housing, medical and other social welfare needs of Ethnic Minority victims and their families in a manner that is accessible to them³⁵.

10. A domestic violence court should be established to handle all civil and criminal domestic cases, including violations of injunction orders³⁶; the criteria that is to be used in categorizing cases of disputes or violence should be transparent and a non-drop prosecution policy should be adopted where the case should proceed as long as there is sufficient evidence, even in the absence of cooperation of the victim³⁷;
11. The government should establish a centralized, gender-sensitive body to coordinate and supervise all issues relating to violence against women and the relevant service providers for women victims³⁸;
12. The EOC must take all steps to investigate problematic practices and policies that relates to domestic violence against women, and also proactively empower ethnic minority women to voice out and seek help³⁹;
13. The government should devote resources on public education in order to raise awareness of the stereotypes and prejudices in the community against ethnic minority women, particularly in terms of cultural practices⁴⁰;

¹ Census and Statistics Department, *Population Census Thematic Report: Ethnic Minorities* (Hong Kong SAR Government 2012).

² See Table 1.2 in Key Demographic Data Chapter of this Report.

³ The Hong Kong Council of Social Service, 'Poverty Situation of South and Southeast Asian Ethnic Minorities in Hong Kong' (Poverty, 10 December 2013) <http://www.poverty.org.hk/sites/default/files/20131218_em_e.pdf> accessed 17 September 2015.

⁴ World Vision Hong Kong, 'Child Marriage: Why is this happening?' (*World Vision Hong Kong*, 9 October 2013) <<http://www.worldvision.org.hk/en/learn/child-marriage-why>> accessed 17 September 2015.

⁵ *ibid.*

⁶ Oriental Daily, '探射燈:少數族裔家庭 宜溝通減摩擦' *Oriental Daily* (Hong Kong, 16 Feb 2014) <http://orientaldaily.on.cc/cnt/news/20140216/00176_099.html> accessed 17 September 2015.

⁷ The Reviewing Editor of this Report, Shalini Mahtani, contributed to the development and analysis in this section on Dependency Ratios.

⁸ Senior Citizen Home Safety Association, 'Senior Citizen Home Safety Association: Ethnic Minorities' (*Senior Citizen Home Safety Association*, 17 September 2015) <<http://www.schsa.org.hk/remc>> accessed 17 September 2015.

⁹ Against Child Abuse Ltd, Press Release "「少數族裔和諧家庭計劃」改善親子關係 融入本港生活" (17 March 2012).

¹⁰ Hong Kong Christian Service, 'Research on 'Parental Support and School Adjustment of South Asian Children in Hong Kong' (*Hong Kong Christian Service*, October 2006) <<http://www.hkcs.org/enews/e053/e05308.htm>> accessed 17 September 2015.

¹¹ W. F. Ting, *A study of the social situations of ethnic minority women in Hong Kong* (Hong Kong Christian Service 2006).

¹² Jenny Tonsing, 'Conceptualizing Partner Abuse Among South Asian Women in Hong Kong' (2014) 25 *Journal of Transcultural Nursing* 281.

¹³ Puja Kapai, 'Bringing Intersectionality Home: Delivering Contextualised Justice in Gender Based Violence' in Amy Barrow and Joy Chia (eds), *Gender, Violence and the State in Asia* (Routledge 2015, forthcoming).

¹⁴ Financial Committee, LegCo 2014-15 Budget Meeting, LWB(WW)0410 Appendix, 0411.

- ¹⁵ Puja Kapai, 'Minority Women: A Struggle for Equal Protection against Domestic Violence' in Beverley Baines, Daphne Barak-Erez and Tsvi Kahana (eds), *Female Constitutionalism: Global Perspectives* (Cambridge University Press 2012) 14.
- ¹⁶ 2006 Research Study (n11) and 2012 Research Study (n12).
- ¹⁷ 2006 Research Study (n11).
- ¹⁸ Kapai (n 15) 15-22.
- ¹⁹ 2006 Research Study (n11) and Kapai (n13).
- ²⁰ Kapai (n 15) 15-22.
- ²¹ *ibid.*
- ²² Social Welfare Department, 'Information for Ethnic Minorities' (*Social Welfare Department*, 1 April 2015) <http://www.swd.gov.hk/en/index/site_download/page_rru> accessed 17 September 2015.
- ²³ Kapai (n 15) 10.
- ²⁴ Social Welfare Department, 'Multi-purpose Crisis Intervention and Support Centre (CEASE Crisis Centre)' (*Social Welfare Department*, 30 September 2014) <http://www.swd.gov.hk/en/index/site_pubsvc/page_family/sub_listofserv/id_CrisisIntervention> accessed 17 September 2015.
- ²⁵ Association for Concern of Legal Rights of Victims of Domestic Violence, 'Re: Shelter service for Ethnic Minority Victims of Domestic Violence and Sexual Violence, LC Paper No. CB(2)824/14-15(11)' (*Legislative Council*, 4 February 2015) <http://www.legco.gov.hk/yr14-15/english/panels/ws/ws_dv/papers/ws_dv20150209cb2-824-11-e.pdf> accessed 17 September 2015.
- ²⁶ *Ibid.*
- ²⁷ Leung Lai Ching, 'It's A Matter of Trust: Policing Domestic Violence in Hong Kong' (2014) 29 *Journal of Interpersonal Violence* 96.
- ²⁸ Hong Kong SAR Government, 'SWD launches new API on prevention of domestic violence (with photo)' (*Hong Kong SAR Government*, 2 December 2014) <<http://www.info.gov.hk/gia/general/201412/02/P201412020337.htm>> accessed 17 September 2015.
- ²⁹ HKCSS Brief, "EM Mainstreaming 2015" on file with author.
- ³⁰ Leung Lai Ching and RainLily, *The Effectiveness of the "WE Stand" Programme for Female Migrant Workers and Ethnic Minority Women: A Research Report* (Association Concerning Sexual Violence Against Women 2015).
- ³¹ Association for Concern of Legal Rights of Victims of Domestic Violence (n 25).
- ³² Harmony House, 'Submission on the shelter service for victims of domestic violence and sexual violence, LC Paper No. CB(2)806/14-15(01)' (*Legislative Council*, 9 February 2015) <http://www.legco.gov.hk/yr15-16/english/panels/ws/ws_dv/papers/dv_c.htm> accessed 17 September 2015.
- ³³ Association for Concern of Legal Rights of Victims of Domestic Violence (n 25).
- ³⁴ Kapai, 2015 Study (n13).
- ³⁵ Centre of Comparative and Public Law, Women's Studies Research Centre and Hong Kong Women's Coalition on Equal Opportunities, 'Submission to CEDAW pre-sessional working group on the implementation of CEDAW in Hong Kong' (*Hong Kong Federation of Women's Centres*, January 2014) ("CCPL, WSRC and Women's Coalition on Equal Opportunities Joint Shadow Report Submission to CEDAW") <<http://womenscentre.org.hk/wp-content/uploads/2014/01/2014-01-23-CCPL-WSRC-WCEO-Shadow-Report.pdf>> accessed 17 September 2015, para 51.
- ³⁶ *Ibid.*
- ³⁷ *Ibid.*, para 52.
- ³⁸ CCPL, WSRC and Women's Coalition on Equal Opportunities Joint Shadow Report Submission to CEDAW, (n 36).
- ³⁹ *ibid.*
- ⁴⁰ *ibid.*

CHAPTER 7: HEALTHCARE NEEDS OF ETHNIC MINORITIES**OVERVIEW**

The right to public healthcare is implied in Articles 144 and 145 of the Basic Law of Hong Kong (“HKBL”)¹ and all Hong Kong residents (persons with a Hong Kong identity card) are entitled to equal access to it, regardless of their socioeconomic status, race or religion. Hong Kong’s international legal obligations also require that public services be made available to all as a matter of equal right and opportunity, regardless of language, race or other unreasonable distinctions or limitations.²

The Race Discrimination Ordinance (“RDO”) prohibits discriminatory treatment or inequality in access to healthcare. However, as discussed in the Chapter on the Rights of Ethnic Minorities Under the Law: Equality and Non-Discrimination in this Report, the lack of reference in the RDO to government powers and functions raises a question as to whether government healthcare provisions and services are covered within its purview.³ This makes it unclear whether ethnic minorities could use the RDO as a basis for legal action against discrimination in the provision of healthcare.

As noted in the Key Demographic Data chapter, ethnic minorities constitute 6.4% of the population of Hong Kong. This number is on the rise with a 31.2% increase between 2001 and 2011.⁴ The population of elderly ethnic minorities (aged 65 and above) has grown from about 3,700 in 2001 to almost 10,000 in 2011, amounting to an increase of 170%.

Between 2001 and 2011:

Ethnic Minority Population ↑ 31.2%
Elderly Ethnic Minorities ↑ 170%

Although Hong Kong is regarded as having a world-class public health care system, ethnic minorities in Hong Kong struggle to have equal access to healthcare services due to language, cultural and religious barriers in such settings. Ethnic minorities also experience discrimination on the grounds of race, immigration status, and nationality. For instance, the lack of access to materials in a language they can understand deprives ethnic minorities of access to essential information on public healthcare services in Hong Kong and more importantly, their right to receive such services.

Ethnic minorities often rely on advice from friends and relatives about available services or what to do in certain health-related circumstances. However, individuals in their network may not be able to offer accurate information. This therefore impacts the appropriateness of the treatment received, the timeliness of the treatment and the outcome of the treatment. Without proper access to information, the right to autonomy in making decisions in relation to one’s health is undermined. Whilst it would be serious enough if one were to experience any one of these barriers, many ethnic minorities experiences are compounded by multiple forms of discrimination, for example both racial and language discrimination.

Part A of this Chapter discusses common health issues affecting ethnic minorities as a group. For example, obesity is a serious problem among ethnic minority women of particular backgrounds. In addition, women from certain ethnic groups are prone to a higher incidence of cervical cancer and yet, while screening tests for early diagnosis are

available, ethnic minority women are largely unaware of them and the importance of taking such tests regularly as a preventive or early detection measure.

Part B addresses health needs of specific communities of ethnic minorities and raises issues requiring urgent attention, including the health needs of the elderly, female sex workers, female circumcision, female infanticide, and domestic violence victims. Indeed, gender has emerged as a crucial marker for targeted service provision in the healthcare setting for particular groups of ethnic minorities.

Part C explores ethnic minority's access to healthcare services in Hong Kong. It highlights the major difficulties that result from language barriers, hampering access to quality healthcare services and in some instances, has been shown to have detrimental and sometimes, even life and death, consequences for patients. The case of *Martin Jacques and others v Hospital Authority*⁵ illustrates the seriousness of this issue and extent to which pervasive and systemic discriminatory attitudes in the healthcare context can undermine the equal right to life and dignity of all persons.

Part D of this chapter focuses on substance abuse, a serious problem among ethnic minorities, especially among the youth. Experiences of social exclusion and life at the margins of society have exacerbated the drug problem. Ethnic minority substance abusers lack access to rehabilitation services that are appropriate and suited to their needs, thereby further worsening their addiction. Families often find it difficult to deal with the consequences and effects of substance abuse, which entail serious disruptions to family life and harmony that result from domestic violence, unemployment and financial burdens, often caused by substance abuse, depression and various family crises. Conflict with and exclusion from both, Hong Kong society and their ethnic communities due to their 'modern' views is causing an identity crisis among ethnic minority youth, which peaks in the teenage years. Torn between lives in two different 'worlds' and a lack of belonging to either, are often primary markers of at-risk youth who turn to drugs in their desire to 'fit in somewhere.'

Part E of the Chapter considers the occupational health risks of ethnic minorities. This area warrants special attention given the significant risks of work injury and occupational diseases due to occupational hazards and the failure of employers to ensure their safety at work.

A. COMMON HEALTH ISSUES

A1. Chronic Diseases

The South Asian Health Support Programme Annual Report 2010/2011, which presented the results of screening South Asians for diabetes, hypertension and obesity⁶ revealed the extent to which South Asians are prone to these high-risk factors for cardiovascular diseases and other illnesses. As *Table 7.1* below shows, 6% had high blood sugar levels, over 30% had high blood pressure, and an overwhelming 80% were obese, 72% of whom were female. Nepali respondents were most at risk of high blood pressure and body fat whilst the Indian sample was most likely to have high blood sugar levels.

Sharmila Gurung, Project Manager of the South Asian Health Support Programme at the United Christian Nethersole Community Health Service Centre, said that South Asians were at a higher risk of diabetes since their diets contain large amounts of oil, fried food and sweets.⁷

Table 7.1 Screening Results of South Asians for Diabetes, hypertension and obesity

Screening item	Total cases	Positive cases	%
Diabetes	2400	142 *	6
Hypertension	2764	844 **	30.5
Obesity	2235	1783 ***	80 (72% female; 8% male)

* Random Blood Sugar was ≥ 11.1 mmol/L. Source: South Asian Health Support Programme Annual Report 2010/2011

** Blood pressure measure $\geq 140/90$ mmHg

*** For female body fat % $>27\%$ and male $>23\%$

Type 2 diabetes mellitus (T2DM) is one of the most common chronic conditions encountered in primary care, affecting up to 10% of Hong Kong population. Due to a combination of genetic and environmental factors, South Asians are at between 4 to 6 times higher risk of developing T2DM, compared to other ethnic groups. Recent research also shows that ethnic minority diabetes patients are much younger and more obese compared to ethnic Chinese patients.⁸ Since certain South Asian groups tend to have poorer glycaemic control, culturally tailored health care interventions are required for chronic disease management.

“Though it is not possible to alter an individual's genetic composition, risk of developing chronic disease can be reduced by having a healthy lifestyle. Modifying traditional cooking methods, picking the right food and maintaining a regular exercise pattern are crucial. With the differences in religion, health beliefs and dietary practice, translating the existing health educational material for South Asians is inappropriate. There is an urgent need to develop new, culturally appropriate health educational material and use a culturally sensitive approach to promote the health of South Asians.”⁹

Despite their higher propensity for developing these chronic diseases, ethnic minorities do not appear to be exercising extra caution in their daily routines to prevent or minimize these risks. Medical experts advise the need for a culturally mindful approach to enhance the reach of programs to address the risk-factors in the South Asian population group effectively through tailored advice on dietary and exercise regimens.¹⁰

A.2 Cervical Cancer

Cervical cancer has been singled out as a major public health problem around the world. According to the World Health Organization, cervical cancer is the fourth most frequent cancer in women with an estimated 530,000 new cases in 2012, representing 7.5% of all female cancer deaths. Symptoms of cervical cancer tend to appear only after the cancer has reached an advanced stage,¹¹ delaying possibilities for early treatment and survival. In March 2004, the Hong Kong Department of Health launched a Cervical Screening Programme to encourage sexually active women aged 25-64 to have regular cervical smear tests. As of 2014, only 19% of all Hong Kong women aged 25-64 had registered with the Cervical Screening Programme.¹²

Despite the fact that South Asian women are prone to a higher incidence of cervical cancer, South Asian women appear to be unaware of the Cervical Screening Programme and the rate of uptake for regular cervical cancer screening among them is lower than that of Chinese women.¹³ However, since local NGOs, including the United Christian Nethersole Community Health Service and the Community Chest stepped up intensive promotion drives to raise awareness about the importance of screening for cervical cancer regularly as a preventive strategy, more South Asian women have become aware of the Pap smear, the test administered to screen women for cervical cancer.¹⁴

There is however, a lack of research on awareness levels, knowledge of, attitudes towards and behaviour in relation to preventive healthcare strategies for cervical cancer among ethnic minorities as compared to that of the Chinese population of women.¹⁵

Cultural taboos surrounding the discussion of sex and sexual activity and particularly around premarital sex makes it challenging to reach at-risk sexually active women in the South Asian community. This is, especially true for teenagers and unmarried women. Furthermore, conducting the Pap smear requires women to be naked from the waist down, and is in conflict with cultural or religious notions of bodily privacy, integrity and prohibitions against exposure, even in the medical context. These concerns highlight that even with awareness of the health related risks associated with cervical cancer South Asian women may be reluctant to undertake regular Pap smears. A decade of promotion of the need for women to have Pap smears has resulted in a mere 19% uptake among the general population. It is likely that there will be unique challenges in getting South Asian women to recognise the risks entailed and the need for action.

B. SPECIFIC HEALTH CONCERNS

B1. Elderly People

Due to differences in culture and lifestyle, ethnic minority elderly may find it particularly difficult to seek assistance when they face physical and psychological health problems.

In response to the special needs of this vulnerable group, the Government reported to the Legislative Council that the Department of Health had sent letters to invite relevant NGOs to promote the Government Vaccination Programme and the Vaccination Subsidy Schemes and disseminate information of the Elderly Health Care Voucher Scheme to ethnic minorities.¹⁶ However, it is unclear whether the NGOs concerned have the capacity to reach the ethnic minority population as a whole and in particular, those directly impacted, such as ethnic minority elderly and their carers. Not all ethnic minorities are aware of NGOs, their service provision and the facilities made available to them.

Some NGOs in Hong Kong provide healthcare services to the ethnic minority elderly. For example, the Senior Citizen Home Safety Association is a self-financing social enterprise and charitable organization with the mission to enhance the living quality of the elderly in the community.¹⁷ As part of their services, they provide 24-hour personal emergency link service to ethnic minority seniors for emergency support, as well as consultation, counselling and referral services. They also arrange home visits to seniors by ethnic minority staff.¹⁸

The provision of additional services to be provided to ethnic minority elderly is highly dependent on the operation of these NGOs and the resources that are made available to them. This makes the sustainability of such initiatives precarious and leaves the elderly vulnerable to a potential shortage or gap if or when these groups are unable to continue their services.¹⁹ Government-backed measures that are designed and dedicated to address this group's specific needs are not only its obligation under the law but are indispensable to ensure equal protection of the ethnic minority elderly population's right to health.²⁰ More ethnic minority healthcare personnel and services are needed to cater to the unique health needs of this group of elderly.

As the Government considers how to tackle Hong Kong's ageing population, it is important to bring into the discussion the needs of this group of elderly as well to see what measures are needed to effectively provide for the needs of all Hong Kong elderly, including ethnic minorities. There is to date, however, no data available on the status of Hong Kong's ethnic minority elderlies, their healthcare needs, the numbers in old age homes or in the longer-term care of non-family members and the level and types of support they require.

B2. Sex Workers

There is a visible presence of sex workers in Hong Kong. This group includes those from ethnic minority communities, including Indian, Nepali, Bangladeshi, Filipino and Indonesian. Many women and a minority of men and transgender women in Hong Kong, enter into sex work for different reasons, including debt, family burdens, unemployment, materialism or manipulation.²¹ It is however, crucial to recognise the ways in which culture, stigma, shame, fear of law enforcement officers, financial destitution or indebtedness²², trafficking and conditions of slavery, typically combine to heighten the risks of such work for this group of workers.

Some women have reported having been brought to Hong Kong by their spouses under a legitimate marriage but forced into sex work once they arrived.²³ They see no escape mainly due to shame, fear of imprisonment, and ending up even worse off due to threats by their husbands.

One man reported being brought to Hong Kong from India by a prospective bride whose family then started using him as a household maid. He escaped but had to turn to sex work due to his dependent visa which had expired. He lamented that he could not go back home due to the shame and stigma of having been duped into a life of slavery by a woman.²⁴

Sex workers have long been considered a high-risk group both, for the contraction and transmission of sexually transmitted diseases (STDs) and AIDS. They are also at a serious risk of physical violence and harassment by customers and the police.²⁵ Living under the radar and fearful that they may be caught and booked for the offence of soliciting for immoral purposes because they are seen as 'having asked for it'. In addition they live an oppressed existence because they hesitate to call the police when in need. Numerous gaps in the law, for example, whether a consensual act of sexual intercourse becomes non-consensual and results in rape if a customer refuses to wear a condom or removes it mid-way during intercourse, leave sex workers vulnerable to and at a heightened risk for a number of health issues.

However, despite these relatively well-known risks associated with sex work, there is no data on the numbers of ethnic minorities involved in the industry, the numbers affected by STDs, AIDs, physical or sexual assault injuries sustained in the course of sex work or circumstances of death.²⁶ It is critical to recognise the serious health risks faced by sex workers and the barriers that social stigma and discrimination pose for sex workers when they seek assistance, whether for healthcare or other service interventions, including police protection.²⁷ The perceived undesirable nature of their work serves to detract from people's sense of responsibility towards this group. Most importantly, it undermines their right to equal protection under the law and right of equal access to healthcare.

Adding to these sociocultural barriers, language further impedes ethnic minority sex workers ability to access information in relation to safe sex practices, the health risks associated with sex work as well as avenues for regular screening and tests and resources for protection, prevention and treatment. It is vital that ethnic minorities engaged in sex work be made aware of this information.

B3. Female Circumcision and Female Infanticide

There is a lack of research on the practice of female circumcision and infanticide in Hong Kong. These are serious global issues and we remain unaware of their prevalence in Hong Kong. Both these issues have significant health implications for ethnic minority girls in particular, not only in early life due to aborted female foetuses but also raise health and hygiene issues surrounding female circumcision, impacting the general and maternal health of ethnic minority women in later years.

Female circumcision is the removal of some or all of the external female genitalia for non-medical reasons. It is practiced in some communities as a cultural rite of passage for teenage girls or as a matter of religious edict. It is predominantly practiced in certain African and Islamic communities, and a small group of sects in South Asia. According to the World Health Organization, the procedure can cause severe bleeding and problems when urinating, and later, cysts, infections, infertility as well as complications in childbirth and increased risk of new born deaths.²⁸

Although the practice has been internationally condemned and is outlawed in many parts of the world, it continues to be practiced widely and forcibly in hazardous conditions since health professionals are unwilling to perform the surgery. Despite the prevalence of the practice worldwide, there is limited literature in Hong Kong regarding the prevalence of the practice²⁹, the communities that continue to practice it, where and how the surgery occurs. One place to start gathering such data and information may be public hospitals where patients may come to have their wounds or injuries attended to.



Due to its high health risks, its gendered nature and most importantly, implications for the girl child, female circumcision has always tested the boundaries of a country's commitment to gender equality on the one hand and multiculturalism on the other to determine what is permissible in the name of culture and religion.

Another critical issue of global concern is female infanticide, the deliberate killing of newborn female children.

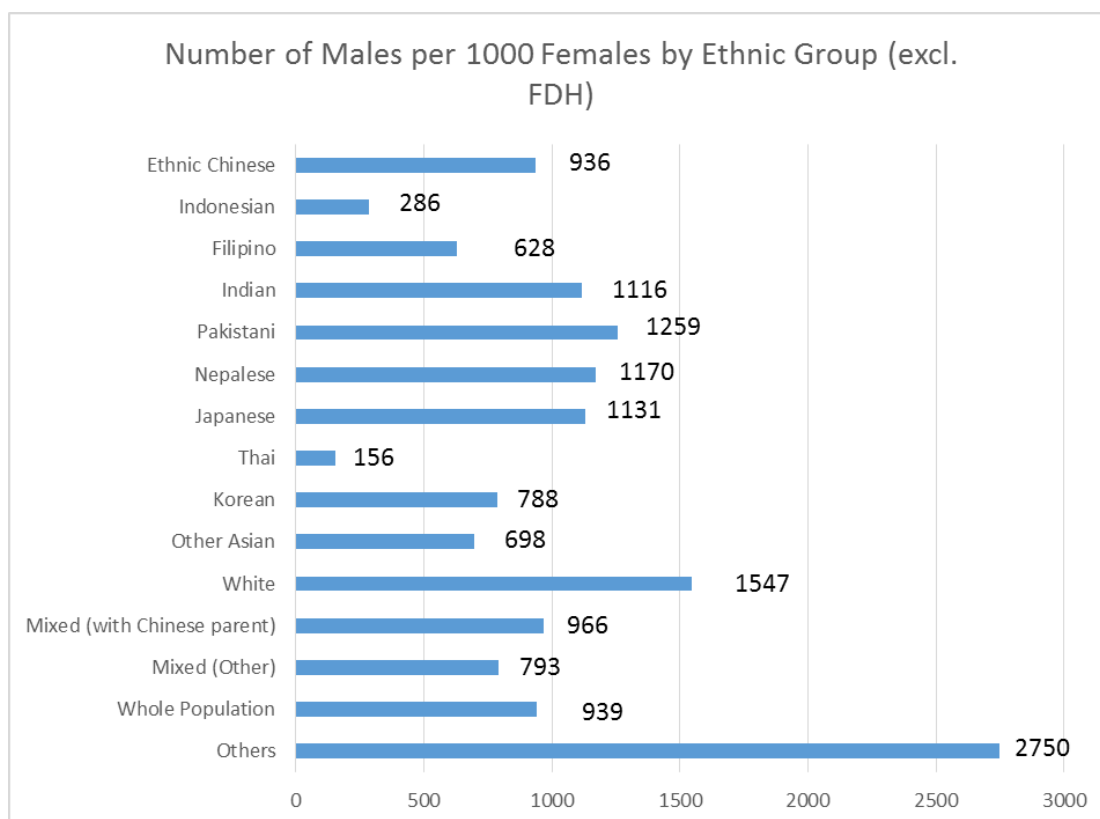
Article 6(1) of the International Covenant on Civil and Political Rights provides that every human being has the inherent right to life, which shall be protected by law. Infanticide is unlawful in Hong Kong,³⁰ as in many other parts of the world.

The availability of advanced technology in a place like Hong Kong makes sex selective abortions a possibility without due attention being paid to the grave gender implications underlying the availability of this facility to expecting parents. A lawful abortion in Hong Kong requires the clearance of two medical practitioners. However, the considerations involved are medical in nature and do not pay any regard to the cultural and gendered motivations that may underlie the request for an abortion. Abortion, in some cases, has replaced the practice of foeticide. Such practices undermine not only the right to life but also the women's right to decide on their own important life issues. Even in Hong Kong, which has one of the lowest birth rates in the world, when people do have children, there continues to be a preference for male children.³¹ Therefore, practitioners may easily overlook such implicit preferences being expressed without attracting undue attention.

Global and individualized campaigns in India and China, countries with the highest rates of female infanticide and the largest gender imbalance ratio, have highlighted the challenges inherent in reconciling cultural values and preferences with human rights standards. The Hong Kong community needs to be made aware of the possibility that these attitudes are prevalent here and sex-selective preferences may be exercised in the healthcare context among certain population groups.

Graph 7.1 below highlights the male to female ratio by ethnic group (excluding foreign domestic helpers). Some groups have an alarmingly high male to female ratio. This warrants attention given the implications for health care planning, preventive strategies and proper resourcing to address the needs of specific target groups. The general sex ratio for the ethnic minority population is 1039 compared with 939 of the whole population of Hong Kong (excluding FDHs). The ratio of 1547 for Whites was also well above parity, as it was for Pakistanis and Nepalese at 1259 and 1170 respectively.

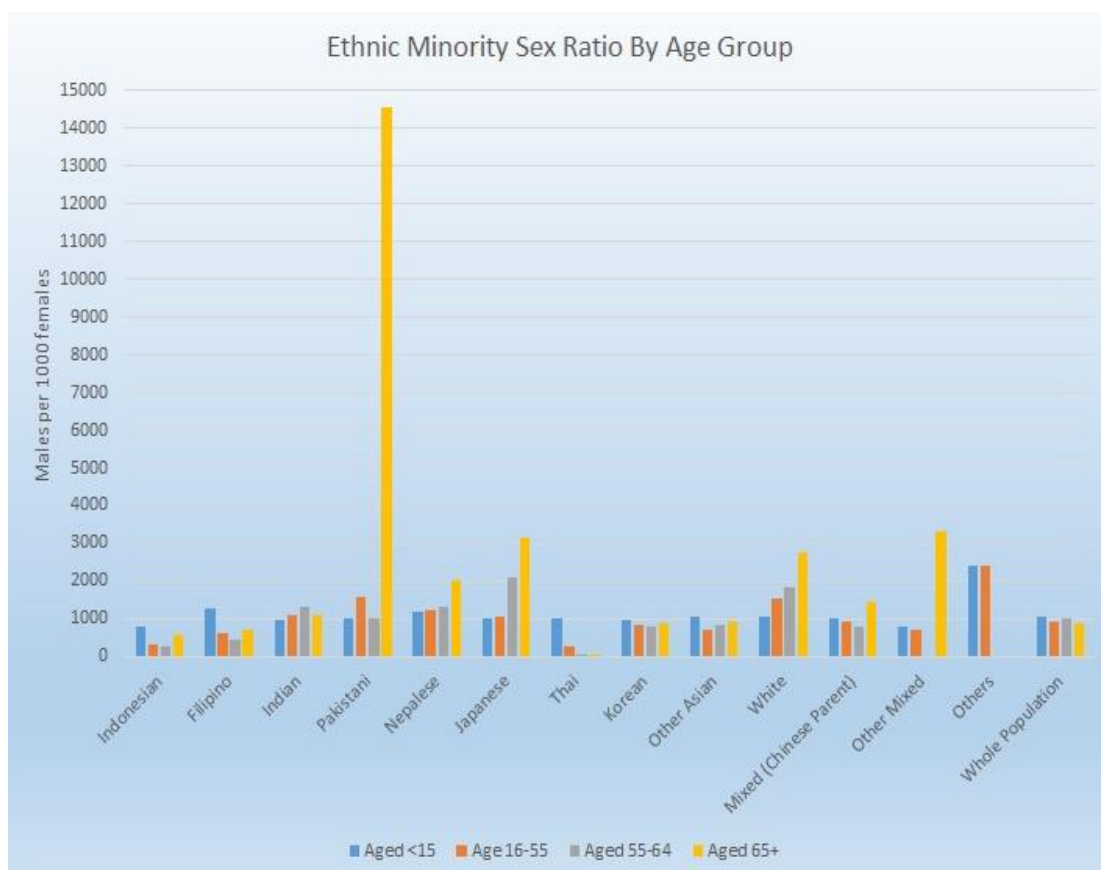
Graph 7.1 Graph Showing Number of Males per 1000 Females by Ethnic Group (Excluding FDHs)



Source: Census and Statistics Department, Thematic Report: Ethnic Minorities 2011, Table 3.4

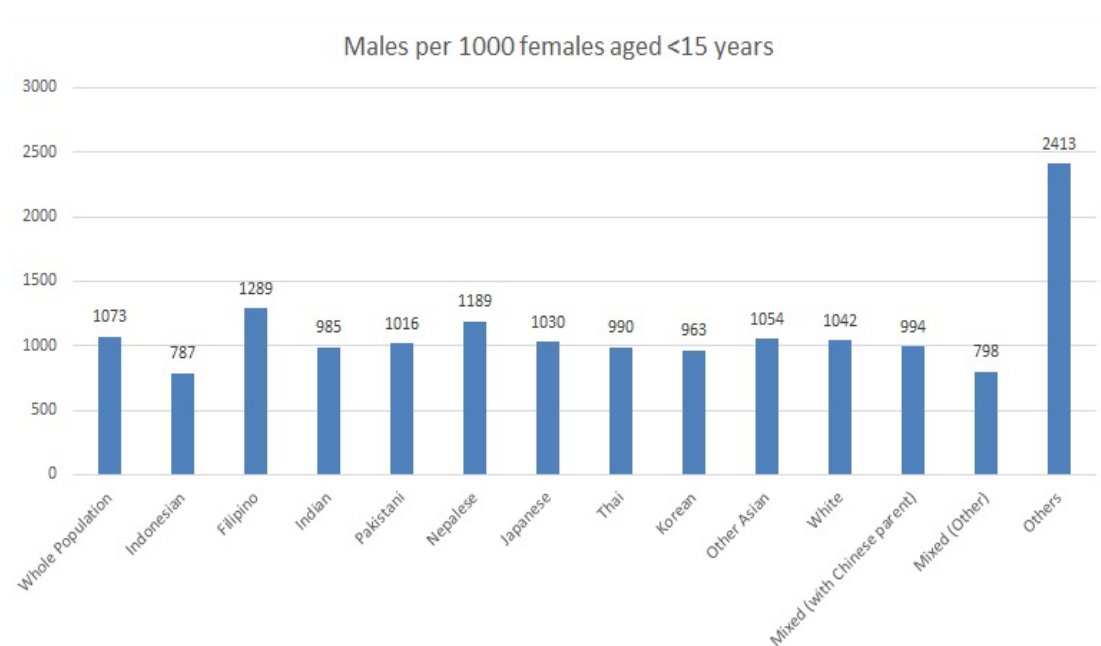
Whilst interesting patterns emerge across the different ethnic groups in *Graph 7.2*, the disparities in sex ratios for each of the age groups by ethnicity are pertinent. *Graph 7.3* below shows that there is a high male to female ratio among ethnic minorities for children under the age of 15, the highest representations being among the Filipinos at 1289 males for every 1000 females, followed by Nepalese with 1189 males for every 1000 females.³²

Graph 7.2 Ethnic Minority Sex Ratio by Age Groups



Source: *Thematic Report on Ethnic Minorities 2011*

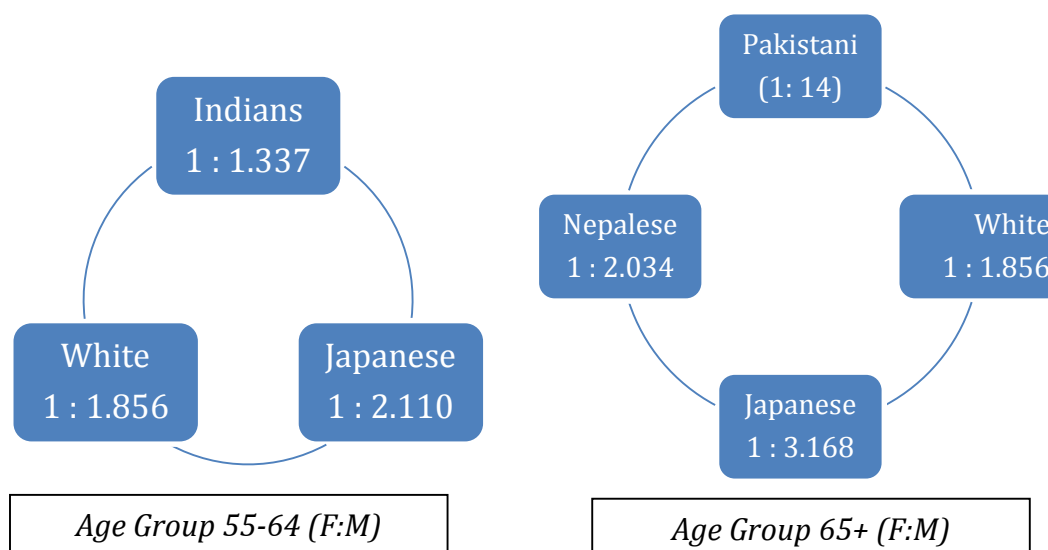
Graph 7.3 Graph Showing Number of Males per 1000 Females by Ethnic Group under the Age of 15 (Excluding FDHs)



Source: Census and Statistics Department, Thematic Report: Ethnic Minorities 2011

For the 16-54 years age group, Pakistani, Japanese and Nepalese have a significantly higher male: female ratio, with 1567, 1061 and 1222 males per 1000 females respectively. These numbers and the disproportionate number of White males (1525) compared to females can be attributed to the large number of men working in Hong Kong who have left their families in their home countries.

Among older groups too, there is a clear disproportionality, particularly within the Pakistani, Japanese, Nepalese and White ethnicities.



Source: Census and Statistics Department, Thematic Report: Ethnic Minorities 2011

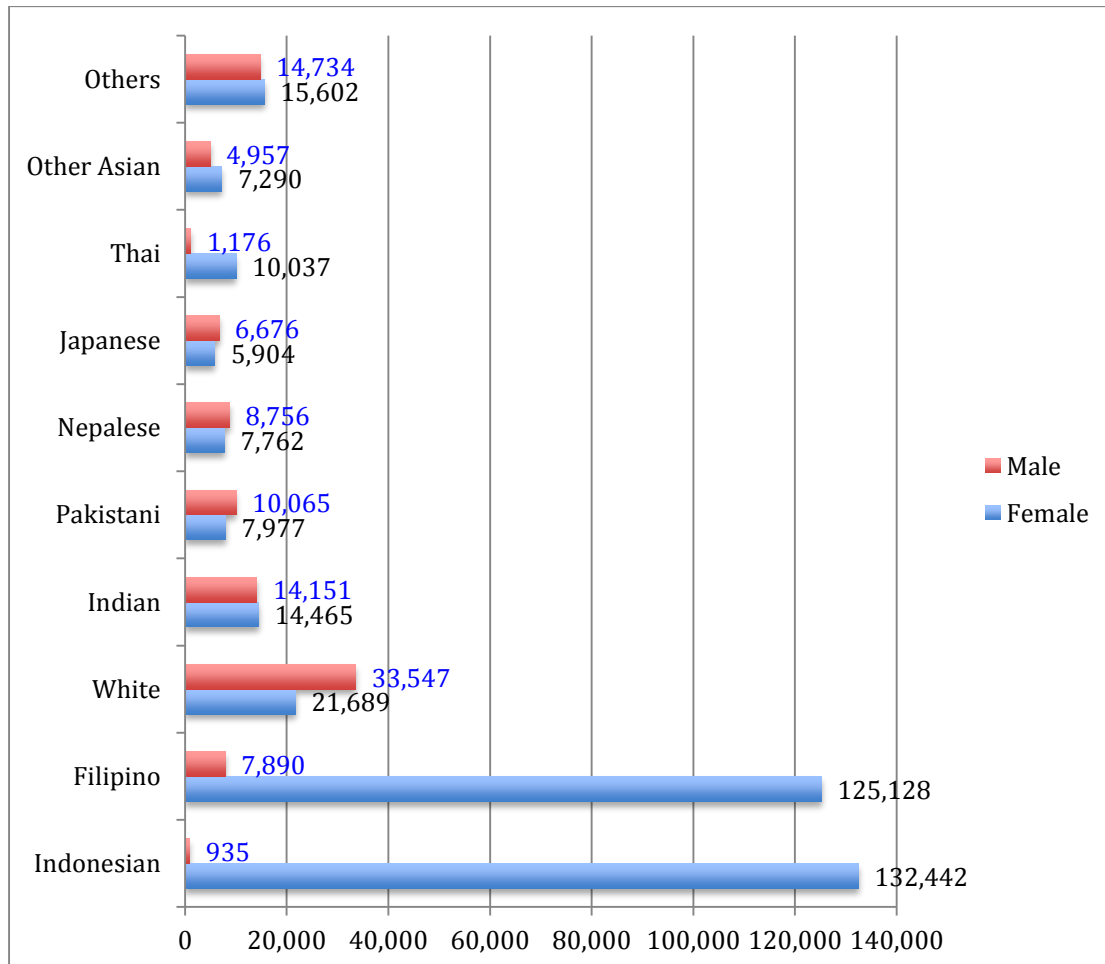
The skewed ratio for these older groups may have important policy and planning implications for the elderly, especially in the context of healthcare needs of men but also raise questions about the absence of elderly females from these population groups in Hong Kong.

The imbalance is decidedly more pronounced among the South Asian ethnic groups. There is, however, no research done on the prevalence of such attitudes and preferences for male children among Hong Kong's ethnic minorities and whether any of the abortions carried out within these communities are motivated by such considerations, thus this statistic alone, is inconclusive. In order to ensure that the rights of the girl child are equally protected, it is important to better understand this phenomenon and take an evidence-based approach to outlining the necessary educational, practical, medical and other initiatives.

Graph 7.4 presents the numbers of the whole population, inclusive of foreign domestic helpers, disaggregated by gender and ethnicity. This is a useful representation to bear in mind in the context of healthcare needs of ethnic minority women, since domestic workers as a group, have various health needs too and these need to be properly addressed. Given their significant presence in Hong Kong and the health issues that affect them given their proximity to various members of the family they are looking after who may be ill, or their own personal health issues, it is important to ensure that adequate resources are in

place to fully attend to their needs. An area warranting urgent attention are the maternal health needs of foreign domestic helpers and that of their offspring.

Graph 7.4 Absolute Numbers of the Whole Population by Gender and Ethnicity (including FDHs)



Source: Census and Statistics Department, *Thematic Report: Ethnic Minorities 2011*

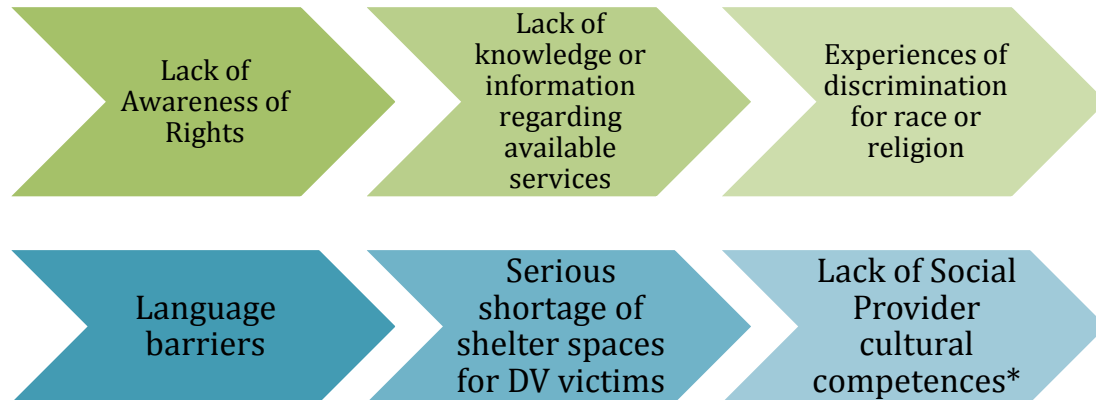
B4. Domestic Violence Victims

Domestic violence is a major women's health issue globally. Victims of domestic violence, whether physical or psychological, typically suffer from severe emotional and psychological consequences, including chronic fatigue, muscle tension, sexual dysfunction³³, increased anxiety, post-traumatic stress disorder and depression.³⁴ Around one in seven people who have experienced domestic violence sustain a physical injury.³⁵ Professional services of experts, including empathetic care, are fundamental to assisting victims in primary care and emergency care settings to ensure effective treatment and recovery.³⁶ Treatment is equally important for both, the victim and the perpetrator. Timely and appropriate interventions can have a significant impact on recovery and reducing the incidence of repeat domestic violence and the seriousness of violent episodes.

The early identification of domestic violence is critical to effective treatment and the proper handling of such cases. Research in Hong Kong has identified certain risk factors that act as predictors of violence. For example, pregnant women are more likely to be at risk of domestic violence.³⁷ Identifying relevant predictors of violence or perpetrator

traits, which signal a predisposition to violence, open up important spaces for intervention and strategies to ward off violence.

However, ethnic minorities' access to healthcare services has generally been impeded in numerous ways (See Part C below), including by reason of the following factors:



Including shelter staff, police, social workers and healthcare providers.³⁸

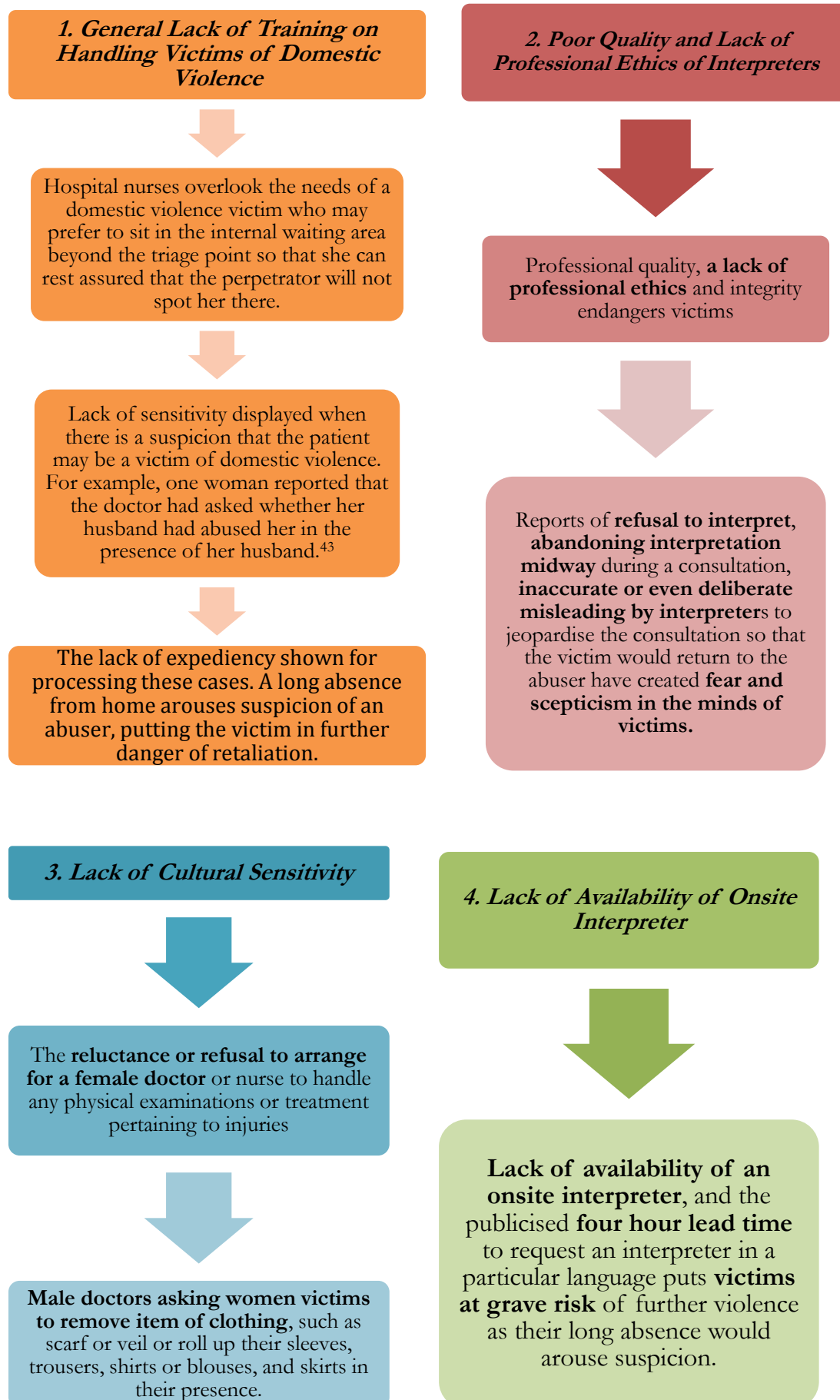
In 2013, 4.7% (180) of the total domestic violence complaints recorded by the Social Welfare Department ("SWD") related to ethnic minority victims. Between April and December 2013, 3.4% (125) of the total cases recorded by the Family and Child Protection Services Unit ("FCPSU") of SWD related to ethnic minority victims.³⁹

Many more incidents of violence are routinely underreported due to the shame, stigma and considerations attaching to cultural and religious value systems which would lead to undesirable consequences, including social exclusion, estrangement from family members, victim-blaming and shaming and isolation. This is particularly true for women who are subjected to sexual assault or rape and are often blamed for attracting the perpetrator's attention. The fear of such consequences, and other barriers such as dependence on perpetrator financially or for a valid visa, language barriers, fear of law enforcement authorities and past experiences of or fear of discrimination further undermine victims' willingness to expose the wrongdoings of family members or those in their extended, but tight-knit social circle.⁴⁰

Of the ethnic minority women who have sought assistance under the available mechanisms, they share stories of mal- or under-nourishment due to a lack of suitable food for them at shelters since many ethnic minority women do not eat meat or beef or pork in some instances, whilst others have lamented the loss of their children and ostracisation and rebuke from their families and communities as a result of turning to outsiders for assistance.⁴¹

Chapter 6 of this report on Marriage, Family and Domestic Violence provides a detailed discussion of all these issues in relation to the help-seeking behaviour of ethnic minority victims of domestic violence and the many barriers they face in equal access to protection, health and other services.

In terms of healthcare and related interventions, the majority of ethnic minority women who experience domestic violence seldom reportedly seek medical attention.⁴² The lack of tact is shown in the approach of services across various fronts and suggests that training in relation to identifying silent victims of domestic violence and how to obtain further information about their situation without alerting the abuser among healthcare professionals is imperative.



These impediments greatly compromise the quality of the medical attention the victim is able to receive at the time and highlights the challenges of finding interpreters from within a small community, members of which typically know each other and their families back home, which sometimes results in fear of retaliation or rebuke. This also underscores the patriarchal and judgmental attitudes that may be pervasive in a community and may impact treatment that the victims are receptive to.

“return to [your husband] like a good, dutiful wife, otherwise, [I will] reveal your location to [him].”

Failure to Self-Identify as a Victim of Domestic Violence

Since understandings of what is unacceptable behaviour in a domestic relationship differ across cultural communities, there are lower rates of self-identification as victims of violence among the ethnic minority community.⁴⁴ For example, some ethnic minority women forced into sexual intercourse within marriage would not consider it as rape due to a cultural understanding that the husband can demand sex at any time and it is the wife's duty to oblige.

Interventions are Ineffective Because they Overlook Cultural Factors Impacting Victims and Perpetrators

- Counselling is also perceived to be **stigmatising in some cultures** as indicating a ‘disease of the mind’ and is **typically avoided** by ethnic minorities.
- Counselling services are predominantly tended to be **available in Chinese**.⁴⁵ The **language barrier** makes this **intervention ineffective** for ethnic minority victims and perpetrators of violence.
- The use of an interpreter **undermines the therapeutic quality and impact** of the counselling due to the loss of authenticity of the message and the inability to develop a relationship of trust between the counsellor and patient.⁴⁶
- The **lack of culturally sensitive material** to work with also **compromises quality** or impact of therapeutic effects of the treatment.

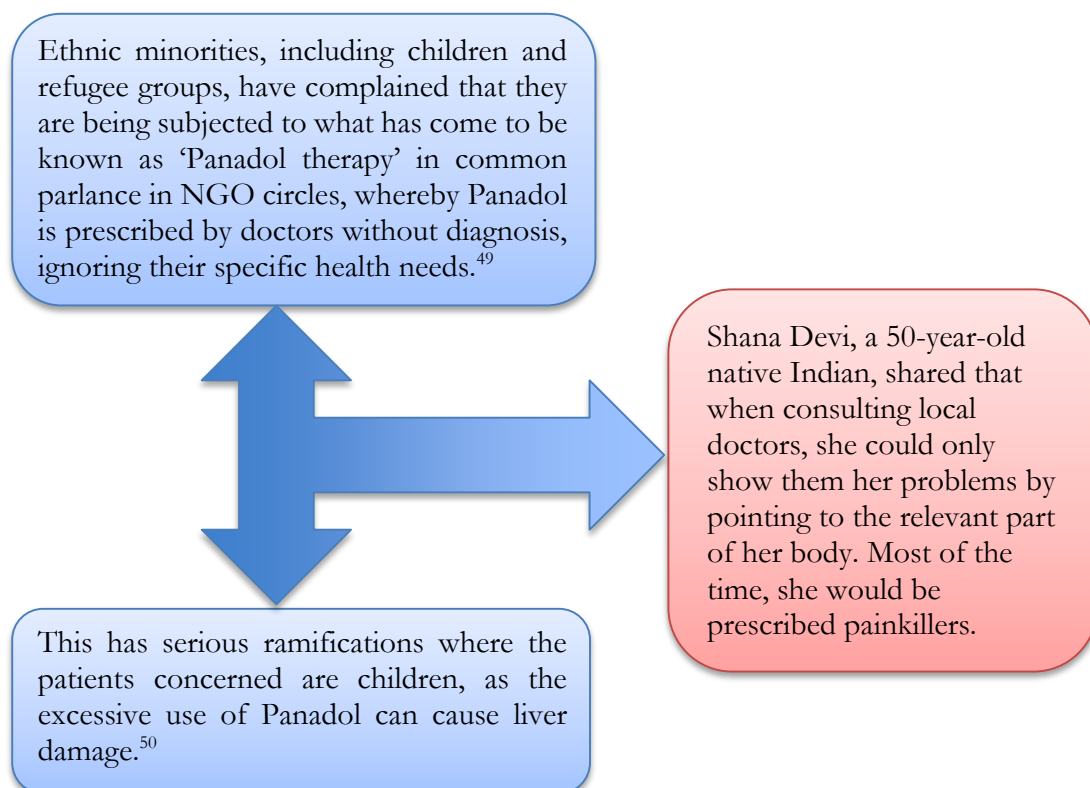
Apart from the specific examples identified above, there are general barriers impacting the accessibility of ethnic minority women to healthcare services in Hong Kong. These have grave implications for the enjoyment of an equal right to quality healthcare for all people regardless of their status and background. Understanding the barriers, it is still vital to ensure the resources provided to ethnic minorities meet the best global standards. The government and NGOs could offer more accessible interpretation services when support services are provided. Given the small size of ethnic minority population, the use of technology, for example, to employ experts abroad to operate a 24/7 dial-in interpretation services may be an option.

C. ACCESS TO HEALTHCARE SERVICES***C1. Language and Cultural Barriers***

In a 2009 survey conducted by the Hong Kong Polytechnic University and the Hong Kong Christian Service, around 80% of the respondents cited difficulties in communicating with doctors or other medical staff as the main obstacles when accessing health services. Some expressed that the fees charged by doctors were high whilst others remarked that most informative leaflets available in the hospitals were available only in Chinese, making it difficult for them to access health-related information. The lack of translated leaflets on critical health information and services highlights the primary impediment to catering effectively for healthcare needs of ethnic minorities.

Whilst the population of ethnic minorities continues to grow in Hong Kong, the Government has paid insufficient attention to the problems faced by ethnic minorities in terms of equal accessibility to healthcare services. Many ethnic minorities, especially the elderly, are unable to access appropriate and comprehensive healthcare information primarily due to language barriers.⁴⁷

The lack of interpreters available, the long wait before an interpreter can attend the hospital and the poor professional quality of interpreters available make it challenging for ethnic minorities to communicate their needs effectively to the doctors, who may otherwise misunderstand their symptoms and concerns.⁴⁸



In another case dealt with by Hong Kong Unison, a client with a long-term headache was prescribed Panadol after each consultation. She was diagnosed of depression only at a later stage.⁵¹

"No male doctor,
please"

Others, especially women, may find public services inappropriate because of the lack of accommodation of their request to avoid male doctors for religious and cultural reasons.⁵²

"I have a special
diet"

Some also refuse inpatient hospital care in order to avoid consumption of food or medicine prepared in contravention of religious practices (e.g. Islam and Judaism prescribe detailed dietary laws, such as the need for Halal and Kosher meals).⁵³

To facilitate integration of ethnic minorities into the community and enhance their access to public services (including healthcare services), the Government introduced a policy to fund non-profit-making organisations to operate 6 designated support service centres and 2 sub-centres for ethnic minorities.⁵⁴ However, the quality control and scope of these designated service providers remain a matter of concern. For example, healthcare information on the websites of these service providers is not available in ethnic minority languages.⁵⁵ Although healthcare might not be the main service provided by these centres, as one of the most fundamental needs in society and when healthcare information is often urgently required, the designated support centres should ensure health-related information is readily accessible in terms of language and media, to the ethnic minority stakeholders, their primary clients.

C2. Translation Services and Government Measures

Although the Government has introduced various measures to address the language barriers in this context (as outlined in this section), the reported effectiveness of these measures remain in doubt due to the conflicting information from the Government departments or NGOs concerned and the user groups and their representatives.

In 2009, the Government first launched a telephone interpretation service to help ethnic minorities gain access to public services. The services are run by the Centre for Harmony and Enhancement of Ethnic Minority Residents (CHEER) of the Hong Kong

Christian Service and sponsored by the Home Affairs Department. Around 20 full-time interpreters are hired to provide translation between Chinese or English and seven ethnic minority languages, namely Urdu, Hindi, Punjabi, Nepalese, Tagalog, Bahasa Indonesian and Thai.⁵⁶ Although interpreters are predominantly university graduates and have a strict code of ethics to follow, they receive only on-the-job training as opposed to pre-service training.⁵⁷ Until recently, CHEER was the only NGO providing free translation services to ethnic minorities. There is now a new NGO called 'THEM' which provides similar services.

On the other hand, Hong Kong TransLingual Services (HKTS) is a social enterprise that provides paid interpretation and translation services in 20 languages, including Asian and European languages⁵⁸ and sign language. They serve both public institutions and private companies. Their interpreters are selected based on their educational qualifications, written and oral tests, and interviews. HKTS cooperates with Centre for Translation, Hong Kong Baptist University for the training of interpreters, service supervision and assessment.⁵⁹

In addition, the Government has taken various measures to minimise language barriers to ethnic minorities in accessing the healthcare system. These include the following:

- (1) The Hospital Authority (HA) has arranged for **on-site, free-of-charge interpretation services** in a number of ethnic minority languages by appointment in all public hospitals, health centres, clinics and Maternal and Child Health Centres. They are provided under the management of HA mainly through a service contractor, part-time court interpreters, volunteers and consular offices. **The services cover 18 ethnic minority languages⁶⁰** but these services are **available by advance booking** only.
- (2) The Department of Health (DH) also offers **interpretation services** through the Support Service Centres for Ethnic Minorities and part-time court interpreters.⁶¹ Such services can be arranged for non-urgent care subject to availability in most instances. However, the **unavailability of such services with respect to emergency cases poses a significant danger** to the health of ethnic minorities, especially where the patient and the doctor are unable to communicate effectively.
- (3) Public hospitals and clinics have displayed in conspicuous **locations posters showing information, printed in various ethnic minority languages**, about the arrangement for **applying for interpretation services**.⁶² Despite this, however, there are still many who remain unaware of the availability of such services. Ironically, it requires one to visit the clinic or hospital in order to learn about such services. If one does not feel able to communicate effectively with public healthcare practitioners or their staff, it is unlikely that they would go to the public clinics or hospitals in the first place unless there is no other option. A prime example is ethnic minority victims of domestic violence. In the study conducted by the author, none of the women sought medical attention.⁶³

- (4) For non-scheduled cases, hospital staff will make appropriate arrangements as soon as possible. Past data shows that in such cases **interpreters were able to arrive at sites to provide services within an hour on average.**⁶⁴ This is at odds with what has been reported by some users who said that without advance booking, they were advised that such requests may take up to 4 hours to process and arrange. This typically **discourages ethnic minorities from seeking healthcare at the hospital**, as they may be unable to wait for 4 hours. If the waiting time is shorter, this should be communicated so that they will at least book an interpreter in advance. Needless to say, if the waiting time is indeed 3-4 hours, for an emergency case, the consequences could be fatal. **Greater transparency is required on actual waiting times**, the experiences of the service users and the overall effectiveness of the interpreter in bridging the communication gap.
- (5) The utilisation rate of the interpretation services was quite high. During the period from April 2013 to March 2014, public hospitals and clinics under the HA provided related **interpretation services about 6,000 times**; whilst in the two-year period since April 2012, interpretation services were provided in DH's health centres and **clinics a total of 863 times and 50 cases were handled by CHEER and part-time interpreters respectively.**⁶⁵ Interpretation services requested were **mostly for Urdu (57%), Punjabi (16%) and Nepali (9%).**⁶⁶
- (6) Training on medical knowledge and terms has been provided to all interpreters working under the Department of Health and Hospital Authority. Such training includes those **conducted by university lecturers and covers basic knowledge** about the operation of hospitals, medical terminology and infection control. As of October 2014, **over 80 interpreters** have received such training. In collaboration with representatives of the Centre for Translation of the Hong Kong Baptist University, the service contractor commissioned by the Hospital Authority conducts **annual inspection in hospitals to monitor the service quality of interpreters.**⁶⁷ There appears to be a gap however, as to whether the training covers culturally sensitive issues, particular health risks ethnic minorities are exposed to and identifying whether domestic violence may be a possible health issue.
- (7) Service users were in general very satisfied with the interpretation services. In the 2012-13 financial year, **out of the 4,900 sessions of interpretation services, only 12 complaints were received.** Those complaints mainly related to the failure of interpreters to arrive on time.⁶⁸ In the 2013-14 financial year, **out of the 6,000 sessions of interpretation services, only 3 complaints were received.** The complaints were mainly about the skills of interpreters and none of them was about the punctuality of interpreters.⁶⁹ As noted above, this needs to be reconciled with the different user experiences reported by ethnic minority women victims of domestic violence.

- (8) Seminars and online trainings have been organised **targeting front-line workers**, including those manning enquiry counters, nurses and clerks, to **enhance their communication skills with ethnic minority patients** and to educate them on cultural needs of ethnic minorities and anti-discrimination legislation. Between April 2011 and March 2014, **over 5,000 of the Hospital Authority staff** at various levels received the relevant training.⁷⁰ The training appears to be provided by the Hospital Authority and hospitals internally.
- (9) The Department of Health and Hospital Authority have **translated salient points of some healthcare information into different languages** and they are available on the Internet as well as in public hospitals and clinics. For example, the Hospital Authority prepared **pamphlets in 18 ethnic minority languages on some common diseases** (e.g. headache, chest pain and fever), **treatment procedures** (e.g. blood transfusion and radiation safety issues) and **information about the services of the Hospital Authority** (e.g. fees and charges and the triage system of the Accident and Emergency Departments).⁷¹ However, this healthcare **information is very general and does not aim to cater specific health needs of the ethnic minorities**, which is a critical gap because, as noted above, ethnic minorities are prone to certain high-risk factors for cardiovascular diseases and cervical cancer among women.
- (10) The Hospital Authority has **set up a website for ethnic minorities**, providing basic information of clusters, hospitals and institutions that provide public healthcare services, list of Accident & Emergencies (A&Es) and General Out-patient Clinics (GOPCs) services. However, the **information is only available in 5 ethnic minority languages**, namely Urdu, Punjabi (Pakistani), Punjabi (Indian), Hindi and Nepali.⁷²

Also, the hospitals of the Hospital Authority have put in place measures to cater for the needs of patients of different religious backgrounds. For instance, public hospitals have special meal arrangements for patients of different religious backgrounds, such as halal food for Muslims; and some hospitals have set up small chapels and prayer rooms as well as bereavement rooms in the mortuary for use by people of different religions.⁷³

There is currently little or no information about policies and guidelines in relation to dealing with near-death or the death of persons of ethnic minority background who may have particular cultural or religious preferences for how the body is handled and any rites or rituals that need to be complied with. Health circumstances and impending death have very significant connotations for cultural and religious communities, particularly surrounding dealings with the body pre- and post-mortem. There is a need for active consultation on these issues so that appropriate policies and guidelines and any necessary accommodations can be facilitated.

It is encouraging to see that the Government is paying more attention to the impediments to healthcare services faced by ethnic minorities. However, some of the comments in the Government's report are general and lack supporting statistical data. The impact of these measures for health outcomes in relation to ethnic minorities and their effectiveness must be examined in greater detail to assess whether these measures are

implemented fully and assist the target group in accessing healthcare effectively and on an equal basis.

C3. Racial Discrimination: A Matter of Life and Death?

Racial discrimination is another significant barrier that impedes ethnic minorities' access to healthcare services, as can be seen from the *Martin Jacques and others v Hospital Authority* case.

In *Martin Jacques and others v Hospital Authority*, Harinder Veriah, a solicitor qualified in the United Kingdom was seconded to a Hong Kong law firm and arrived here with her husband Martin and their infant son. On the first day of the millennium, Harinder suffered from a seizure from epilepsy and was sent to Ruttonjee Hospital. According to Jacques, Harinder, being a Malaysian of Indian descent, told him that she was treated as the "bottom of the pile." The next morning, Harinder had another episode of epileptic seizure and died shortly after. The coroner's court returned a verdict of natural death due to sudden unexplained death in epilepsy. Having shared the coroner's report and Harinder's medical records with his medical professional friends, Jacques was unconvinced of the verdict reached and filed a civil lawsuit against the Hospital Authority, alleging racial discrimination and medical negligence. The evidence showed that someone had administered a fatal dose of a medication to Harinder as a result of which her body was steadily being deprived of oxygen. This catalysed the next epileptic seizure. Jacques also complained that he got to the hospital before any doctors had managed to attend to Harinder – a time lapse of around 10 minutes between the phone call he received from the hospital and his arrival. Harinder had gone into cardiac arrest and was unable to be revived in time as a result of the delay.

Initially dismissive of any misconduct on the part of their staff and all denying responsibility on its part in contributing to the death, after a pre-trial hearing that went against the Hospital Authority, Jacques was finally offered a substantial settlement.⁷⁴

"The settlement demonstrated that the Hospital Authority was neither willing nor able to defend their treatment of my wife. Hari's death was entirely unnecessary and utterly avoidable. The hospital succeeded in turning what is a relatively commonplace event in the lives of many into a human catastrophe."

- Martin Jacques⁸³

The outcry sparked by the case propelled the call for the implementation of an anti-racial discrimination law, which was achieved in the form of the Race Discrimination Ordinance in 2009. Although the legislation has been in force for more than 6 years, to date, there remain questions about whether, in practice, ethnic minority patients in critical medical conditions are treated equally and attended to with the same kind of urgency as other patients in Hong Kong and if not, whether there is any scope to bring a claim against such discrimination under the RDO.

D. DRUG ABUSE

D1. Vulnerability of Ethnic Minority Youths

Drug abuse can lead to serious health problems, both physical and psychological. Research has shown that among different ethnic groups in Hong Kong, ethnic minority youths were most vulnerable to drugs.⁷⁶ Furthermore, the lack of access to rehabilitation services makes it hard for ethnic minority drug abusers to seek help in the long run.

According to a survey conducted by the KELY Support Group and the Hong Kong Polytechnic University in 2012:

- 60% of ethnic minority youth respondents displayed **a critical lack of knowledge about drugs and their effects.**
- Compared to Chinese-speaking and English-speaking students, ethnic minority youth had the highest response rates to the statements “I don’t mind trying drugs” and “I don’t know where to get help if I have a drug problem.”
- 26% of them stated it was hard to turn down their friends’ requests to try drugs, **twice as high as** the rate reported in the other two groups.

The KELY Support Group cited that the government is to blame as most of their anti-drug campaigns appeared to be directed only at the Chinese population.⁷⁷

Fermi Wong, Executive Director of Hong Kong Unison said the survey results aligned with her social work experiences. According to Wong, there are three major factors that are likely to lead ethnic minority youth to experimenting with drugs. First, ethnic minority youth are likely to yield to peer pressure, which is prevalent amongst ethnic minorities because of the tight knit community and the sense of brotherhood that prevails. Second, ethnic minority youth are likely to turn to drugs for relief after feeling defeated and excluded from the Hong Kong education system and society at large. Third, discrimination from “mainstream groups” makes it hard for ethnic minority youth to get an early head start in life, increasing the chances they would take drugs out of loneliness fuelled by social isolation and marginalisation in education, employment and other settings.⁷⁸

“Although all youths could be attracted to drugs out of curiosity, minority youths are especially vulnerable. They tend to use drugs to escape reality and to feel the happiness that they find it difficult to feel in real society.” ~ Fermi Wong Wai fun

D2. Basic Statistics of Drug Abusers

The use of hard drugs has become a growing problem among ethnic minority youth in Hong Kong.⁷⁹

In 2006, the Chinese University of Hong Kong and Hong Kong Unison conducted a survey to analyse the drug abuse situation among ethnic minorities in Hong Kong (“Drug Abuse Among Ethnic Minorities”).⁸⁰ One hundred ethnic

minorities were surveyed. The sample included 68 Nepalese, 17 Vietnamese and 15 members of other ethnic groups (Indian, Pakistani, Filipino and Thai). The average age of the respondents was 28.2, with 63% over 25 or above. 98% of them were male and 46% were born in Hong Kong. Half of them attained primary or junior secondary education as the highest level of education; while 49% attained senior secondary education level or above.

The average history of drug abuse was 12.7 years. For those below 25 years of age, the average history of drug abuse was 8.9 years. This indicates that most respondents started taking drugs at around the age of 14, very early on. This has significant implications for future prospects and stability in light of addiction, the economic, social and personal costs of drug abuse and its disruptive impact in various aspects of life.

D3. Drug-related Services

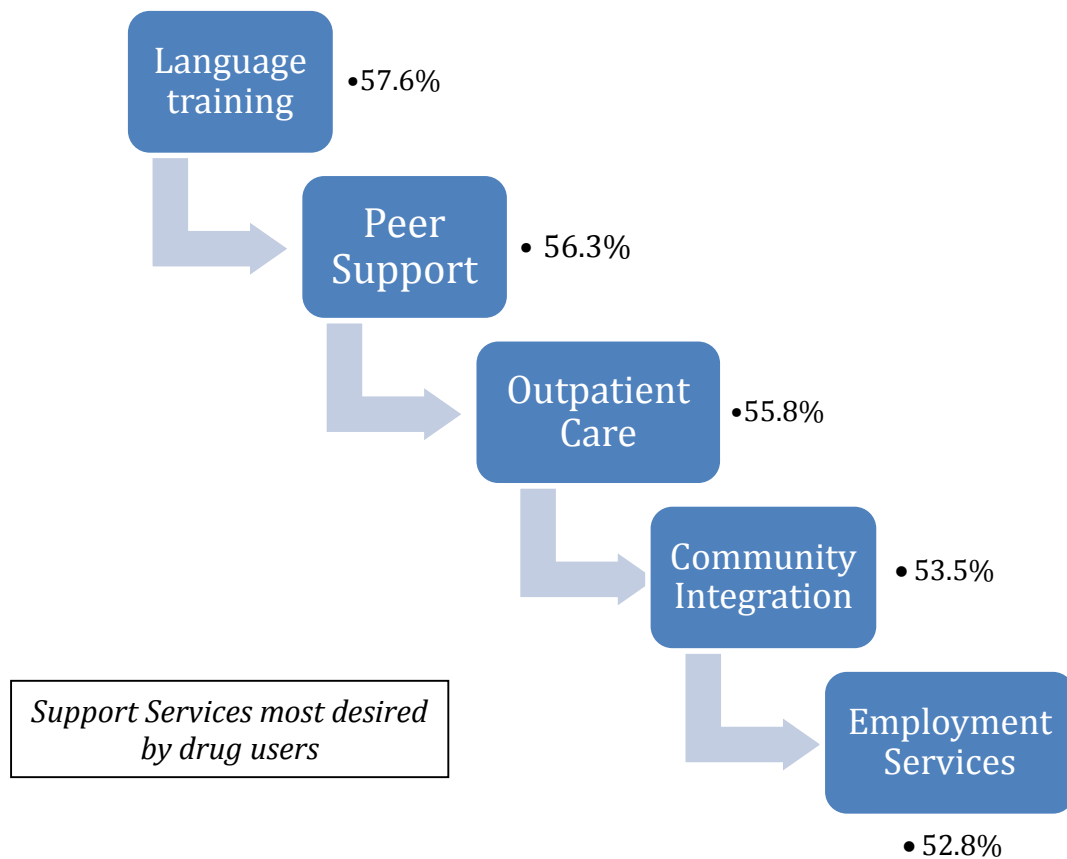
88% of the respondents were aware of the services of the methadone clinic. 57% of them also knew about the services of the Correctional Services Department. However, non-South Asians were much more likely (roughly twice as likely) to be aware of most of the drug rehabilitation services.⁸¹

The methadone clinic service was utilised the most among the respondents (72%). One in five would also turn to NGO rehabilitation services. However, South Asians were only willing or able to persist for an average of 1.8 years, whereas non-South Asians were using the services for an average of 3.5 years.⁸²

The respondents highlighted that the difficulties they faced in integrating into the service user support groups made the services less desirable. Other barriers include racial discrimination and language.⁸³ One past abuser, Ganesh Milan explained that it was crucial for a drug abuser to understand the spoken language of the rehabilitation programme. Milan first started on drugs when he was 16 years old but decided to quit one year later. Yet, he found it difficult to understand the rehabilitation programmes in Hong Kong, mostly due to the language barrier. It took him 10 years to successfully quit the addiction but only when he returned to Nepal for rehabilitation.⁸⁴

Insensitivity to cultural and religious differences in terms of the content of the rehabilitation program, which may conflict with basic tenets of ethnic minorities' personal value systems pose a further difficulty for ethnic minorities in seeking drug-related services. For example, some Pakistani drug abusers reported that they were not willing to attend rehabilitation services because the service providers had an affiliation with Christianity.⁸⁵ It is therefore important to ensure an option of religion-neutral service providers is available to them.

Regarding the help offered by NGOs, Yuen How-sin, coordinator at the Society of Rehabilitation and Crime Prevention comments that not enough NGOs are carrying out community outreach work to help ethnic minority youths, who often do not know where to look for information or to seek help. She urges the Government to provide more active and culturally sensitive support to ethnic minority drug abusers, for example, supporting social organizations to recruit ethnic minority social workers so that the special needs of ethnic minorities can be attended to more effectively.⁸⁶



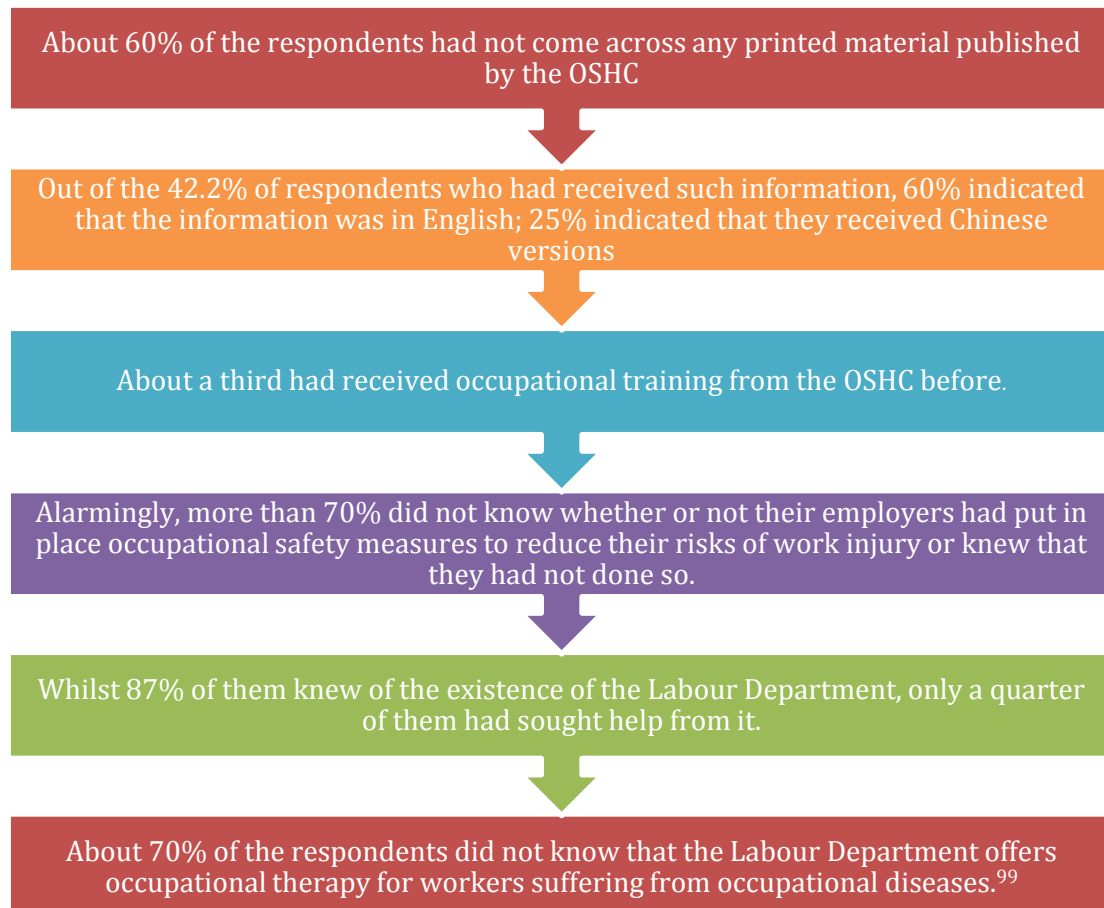
This shows that, apart from language support, **what ethnic minorities desperately need is an inclusive society** where they are accepted and supported.⁸⁷ As discussed above, **one of the reasons ethnic minorities turn to drugs is racial discrimination, exclusion and isolation** from the broader Hong Kong society. This is **a systemic problem** stemming from the lack of effective measures for inclusion through policies to facilitate social integration from an early age and in a variety of contexts.

Public education also plays an important role because many ethnic minority parents are ignorant about drug abuse and its harmful effects. The patriarchal value system often condones male abuse of alcohol and drugs because it may be viewed as an acceptable means to socialise or a necessity of maintaining a high-end social circle. Sometimes, this thinking has translated into permissive attitudes towards their children's drug abuse.

E. HEALTH ISSUES IN THE EMPLOYMENT CONTEXT

As discussed in Chapter 5 of this report on Poverty and Social Welfare, many ethnic minorities are engaged in elementary occupations, which are mostly low paying, physically demanding and at times dangerous. Coupled with the fear of job security, some ethnic minorities will tolerate dangerous workplaces despite low paying jobs, even if they are over-worked and assigned dangerous tasks. Their vulnerability puts them at increasing and significant risks of work injury and occupational disease.⁸⁸

Although the Occupational Safety and Healthy Council (“OSHC”) has published guides on occupational health issues in ethnic minority languages in the form of books, leaflets and posters, a study from 2011 reveals that the majority of ethnic minority workers do not know how and where to obtain this information. Moreover, since some of them do not have Internet facilities at home, the information available on the Internet is inaccessible to them.⁸⁹



The study also found that ethnic minority workers are often deprived of their employees’ rights when they are injured at work. About half of them did not know about the Employees Compensation Ordinance (Cap. 282) which entitles employees to seek statutory compensation from employers when they are injured in the course of employment.⁹¹ On top of that, some did not know about their contractual entitlements because their employment contract was in Chinese.⁹² One respondent even reported that his employer forbade him from telling the doctors about where and how the incident took place so that no compensation had to be paid to him.⁹³ For fear of losing their jobs, some ethnic minority workers do not complain or seek help.

Some ethnic minority workers reported that they were often asked to take up manual and physically demanding tasks because of their apparent strong and more muscular build but they were not provided with appropriate tools to lift and transport heavy objects, rendering them extremely prone to injury.

One respondent, Ali, was asked by his supervisor to carry some steel bars which were extremely heavy. He told his supervisor that the weight of the bars was beyond what he could manage but the supervisor simply demanded him to carry on the task with whatever means he could. In the end, one steel bar fell and broke his knee. He was immediately dismissed after his injury on the basis that there was not enough work so they did not require him. However, Ali later found out from his ex-colleagues that what he was told was not true and suspected that he was sacked only because the employer wanted to avoid future troubles which might arise due to his injury.⁹⁴

Moreover, many respondents did not understand the classes on occupational training as they were often conducted in Cantonese. On the other hand, supervisors failed to provide adequate instructions and training to ethnic minority workers because of the supervisors' poor proficiency in English. Coupled with the lack of safety measures and equipment provided at work, ethnic minority workers are prone to serious risks of injury at work.

KEY OBSERVATIONS

Ethnic minorities do not appear to be exercising sufficient caution in their daily routines to prevent or minimize health risks. Medical experts advise the need for a culturally mindful approach to enhance the reach of programs to address the risk-factors in the South Asian population group effectively through tailored advice on dietary and exercise regimens.

Despite the fact that South Asian women are prone to a higher incidence of cervical cancer, they appear to be unaware of the Cervical Screening Programme. The rate of regular cervical cancer screenings among them is lower than that of Chinese women, which may owe to the cultural taboos surrounding the discussion of sex and sexual activity and particularly around premarital sex makes. This makes it challenging to reach at-risk sexually active women in the South Asian community.

The absence of permanent and sustainable government programs for elderly assistance is an issue. The elderly are vulnerable to a potential shortage or gap if or when government funded groups are unable to continue their services. The skewed ratio (particularly of men) in the older age groups within certain ethnic minorities may have important policy and planning implications for the elderly.

Language barriers to help for victims of Domestic Violence impede those needing help from both considering and accessing the necessary assistance. In terms of healthcare and related interventions, the majority of ethnic minority women who experience domestic violence seldom reportedly seek medical attention. Racial discrimination and a lack of cultural sensitivity are significant barriers that obstruct ethnic minorities' access to healthcare services.

Despite case law and government efforts, there remain questions about whether ethnic minority patients in critical medical conditions are treated equally and attended to with the same kind of urgency as other patients in Hong Kong. In cases where they are not, it is still unclear if there is any scope to bring a claim against such discrimination under the RDO.

Many ethnic minorities are ignorant about drug abuse and its harmful effects. Moreover, many drug users are in need of specialised treatments that are more accessible.

With respect to employment, many workers are ignorant of their rights to occupational safety due to a lack of information dissemination, which can lead to their abuse and unfair treatment.

RECOMMENDATIONS

1. In light of the emerging knowledge about particular health risks that ethnic minorities are prone to, a proactive action plan to promote and disseminate information about preventive measures to combat these health problems and in particular, to raise awareness about the need for regular testing to facilitate early identification and treatment, is urgently required.
2. The Government needs to collect data on the status of Hong Kong's ethnic minority elderlies, their healthcare needs based on the illness and recovery patterns among this group, the numbers in old age homes or in the longer-term care of non-family members and the level and types of support they require. Such data disaggregated by ethnicity, age and gender is indispensable for proper policy development, planning and implementation.
3. Given the number of ethnic minority elderlies, 24-hour personal emergency link for emergency support, consultation, counselling, home visits to seniors by ethnic minority staff and referral services for ethnic minority seniors should be implemented to enhance accessibility to healthcare for this group.
4. The lack of data on the demographics of sex workers highlights the need for Government to gather such data about sex workers, disaggregated by ethnicity, so that their relevant needs can be better understood and specifically addressed in light of their pattern of work, the risks they are exposed to and the barriers they face in seeking treatment in the health setting.
5. It is necessary to collect data pertaining to the practice of female genital mutilation, its prevalence in Hong Kong or whether the operations have been undergone elsewhere among returning girls during their time away. Mapping out the scale and extent of the practice would be very useful in designing appropriate health intervention and awareness raising measures that are targeted and specific to the population group concerned.
6. Gender imbalance in the South Asian population and particularly for certain ethnic groups: rights of the girl child are equally protected under the law. It is important to better understand this phenomenon and take an evidence-based approach to outlining the necessary educational, practical, medical and other initiatives.
7. Treatment approaches for health issues arising as a result of domestic violence require a holistic and regular treatment programme, coupled with culturally appropriate impact assessment tools to determine behavioural responses and triggers and design effective preventive, treatment and therapeutic strategies to deal with the high incidence of domestic violence.
8. Therefore, there needs to be a wider dissemination of information about the types of acts that constitute domestic violence in Hong Kong, and the help available whilst at the same time, data collection efforts need to be standardised across

service sectors to better understand patterns of domestic violence and help-seeking within the ethnic minority population. For example, the use of a standardised assessment tool and intake form for ethnic minority victims of domestic violence.

9. Accreditation of interpreters through a rigorous training program in professionalism and ethics is vital to guard against compromising the safety of the women and to minimise their exposure to risks to their health and life. More importantly, this would help secure their equal right to timely and quality healthcare.

10. These barriers highlight a distinct message for medical professionals: there is a need for a culturally appropriate treatment program for victims suffering from PTSD, perpetrators needing cognitive behavioural therapy and to address the physical and mental health needs of ethnic minorities.

11. Given the centrality of effective communication to an effective counselling relationship and experience, there is a need for culturally sensitive and culturally appropriate counselling⁹⁵ preferably without the intervention of an interpreter in order for it to be empowering and effective in achieving the desired treatment outcomes. This is unprecedented in Hong Kong.

12. Perpetrator intervention programs such as the batterer intervention programmes or cognitive behavioural therapy are predominantly available in Chinese. The few programmes that are available in English may or may not be of assistance to certain groups of ethnic minority perpetrators, who may only be able to benefit from a programme that resonates with their cultural and language needs. For reasons similar to the need for culturally sensitive counselling, culturally sensitive programmes designed to rehabilitate a perpetrator through cognitive behavioural therapy need to be developed and made readily accessible.

13. Hospitals should consider different cultural and religious needs of families whose relatives are nearing death or die in the course of treatment and make available a room for them to grieve or pray in accordance with their beliefs whilst staying close to their loved ones. There should also be greater sensitivity displayed in the handling of bodies post-mortem to ensure that the actions are not hurtful given certain cultural, religious or traditional beliefs. Efforts should be made to display understanding, empathy and respect in times like these.

14. The Government should consider using technology to provide interpretation services to patients in need, for example, through working with overseas interpretation service providers to operate a 24/7 dial in hotline to cover a wider range of languages, for example.

15. Civil society organisations should be clear in their mission to assist ethnic minorities without requiring them to abandon their own religious, cultural or traditional belief frameworks or insisting that they convert to another religious doctrine before offering assistance.

16. Mandatory and regular human rights and cultural sensitivity training for all those engaged as professionals in the healthcare sector. This should be formalised into the ongoing medical education programme and accreditation schemes for licensed medical practice.

¹ Kar Wai Tong, 'Good Death Through Control Over Place of Death: A Snapshot in Hong Kong' in Tong Kar-wai and Kenneth Fong Nai-kuen (eds), *Community Care in Hong Kong: Current Practices, Practice-research Studies and Future Directions*, (City University Press 2014) 170.

² International Covenant on Civil and Political Rights, art 25(c); International Covenant on Economic Social and Cultural Rights, art 12.

³ Race Discrimination Ordinance (Cap 602).

⁴ Census and Statistics Department, 'Population Census Thematic Report: Ethnic Minorities' (Hong Kong SAR Government 2012) para 2.2.

⁵ [2009] HKCFI 245; HCPI 1162/2002.

⁶ United Christian Nethersole Community Health Service, 'South Asian Health Support Programme Annual Report 2010/2011' (United Christian Nethersole Community Health Service 2012) <http://health-southasian.hk/sahp/document/SAHP_annual_report_2010-11-25_th_May_.pdf> accessed 7 August 2015.

⁷ Albert Wong, 'Diabetes screening, tips offered' *South China Morning Post* (Hong Kong, 15 November 2008) <<http://www.scmp.com/article/660289/diabetes-screening-tips-offered>> accessed 7 August 2015.

⁸ Catherine XR Chen and KH Chan, 'Type 2 Diabetes Management in Hong Kong Ethnic Minorities: What Primary Care Physicians Need to Know' (2014) *Hong Kong Medical Journal* 222-228 <<http://www.hkmj.org/system/files/hkm1406p222.pdf>> accessed 7 August 2015.

⁹ *South China Morning Post*, 'City should offer health education appropriate to different cultures' *South China Morning Post* (Hong Kong, 1 October 2012) <<http://www.scmp.com/comment/letters/article/1051114/city-should-offer-health-education-appropriate-different-cultures>> accessed 7 August 2015.

¹⁰ *Ibid.*

¹¹ World Health Organization, 'Fact Sheet of HPV and cervical cancer' (World Health Organization 2015) <<http://www.who.int/mediacentre/factsheets/fs380/en>> accessed 7 August 2015.

¹² http://www.cervicalscreening.gov.hk/english/sr/files/2014_Eng.pdf, p. 2.

¹³ United Christian Nethersole Community Health Service (n 6) 12.

¹⁴ *ibid* 13.

¹⁵ One study which examines cervical cancer screening related knowledge in 2004 has been conducted by Dr Gurung Sharmila, 'Cervical Cancer screening related knowledge, attitude and behaviour: a comparison between South Asian and Chinese women in Hong Kong' (MSc, University of Hong Kong 2014) <<http://hub.hku.hk/bitstream/10722/26948/1/FullText.pdf>> accessed 7 August 2015.

¹⁶ Legislative Council, 'Progress Report on Motion on "Formulating a medical policy to support ethnic minority elderly people" at the Legislative council meeting on 27 November 2013' (Legislative Council of Hong Kong 2013) <<http://www.legco.gov.hk/yr13-14/english/counmtg/motion/cm1127-m3-prpt-e.pdf>> accessed 7 August 2015.

¹⁷ Senior Citizen Home Safety Association, 'Services' (*Senior Citizen Home Safety Association* 2014) <<https://www.schsa.org.hk/en/services/index.html>> accessed 7 August 2015.

¹⁸ Senior Citizen Home Safety Association, 'Ethnic Minority Service' (*Senior Citizen Home Safety Association* 2014) <<http://www.schsa.org.hk/remc/#anch2>> accessed 1 August 2015.

¹⁹ This observation is based on anecdotal evidence gathered by the author as reflected to her by NGO staff and boards of management.

²⁰ The legal obligation to protect the healthcare needs of all people regardless of race, ethnicity, nationality, origin or other status stems from Hong Kong's obligations under the International Covenant on Economic, Social and Cultural Rights, which is constitutionally incorporated into the Hong Kong Basic Law through Article 39. For specific provisions of the Covenant, see (n 2).

²¹ Ziteng, 'The Sex Industry in Hong Kong' (*Ziteng* 2014) <http://www.ziteng.org.hk/platform/pfc03_e.html> accessed 7 August 2015.

²² For example, Eni Lestari, adviser to the Association of Indonesian Migrant Workers in Hong Kong, shares that Indonesians who first arrived in Hong Kong as domestic helpers ended up working as sex workers due to financial difficulties. See Yenni Kwok, 'Not Just Sex Workers: Here's What We Know

About the Hong Kong Murder Victims' (Time, 5 November 2014) <<http://time.com/3557731/rurik-jutting-wanchai-murder-sumarti-ningsih-seneng-mujiasih-jesse-lorena-indonesia-migrant-worker-domestic-helper>> accessed 7 August 2015.

²³ Puja Kapai, 'Understanding and integrating cultural frames of reference in the development of intervention strategies to address domestic violence among ethnic minority victims and perpetrators of domestic violence' (The University of Hong Kong's Centre for Comparative and Public Law 2015) <www.hku.hk/ccpl/publications> accessed 7 August 2015.

²⁴ *Ibid.*

²⁵ Ziteng (n 21).

²⁶ There was a string of sex worker murders in 2009 in which sex workers were robbed and murdered. These remain unresolved cases. The common pattern of the crimes against sex workers in these cases led to an outcry over their vulnerability as fuelled by the prohibition against vice establishments, which covered a case where more than sex workers were operating out of the same premises. This has led to a proliferation of one-woman brothels, leaving the women vulnerable without security or access to help if something goes wrong in the course of the trade. This is a general matter which warrants due attention. See: Deena Guzder, 'Hong Kong Alarmed Over Sex-Worker Murders' (*TIME Magazine*, 10 February 2009) <<http://content.time.com/time/world/article/0,8599,1878395,00.html>> accessed 15 September 2015.

²⁷ This has been well documented by Ziteng in relation to sex-workers in Hong Kong. See *ibid* (n21).

²⁸ See Fact Sheet on Female genital mutilation, updated February 2014: World Health Organization, 'Female genital mutilation' (World Health Organization 2014) <<http://www.who.int/mediacentre/factsheets/fs241/en/>> accessed 7 August 2015.

²⁹ Paul O'Connor, *Islam in Hong Kong: Muslims and Everyday Life in China's World City* (Hong Kong University Press 2012) 192.

³⁰ Offences Against the Person Ordinance (Cap 212), s. 47C.

³¹ Diana Martin, 'Motherhood in Hong Kong: the working mother and child-care in the parent-centred Hong Kong family' in *Hong Kong, the Anthropology of a Chinese Metropolis* (Curzon Press 1997).

³² Census and Statistics Department, 'Thematic Report: Ethnic Minorities' (Census and Statistics Department of the Hong Kong Special Administrative Region 2011) <<http://www.statistics.gov.hk/pub/B11200622012XXXXB0100.pdf>> accessed 6 August 2015.

³³ *ibid.*

³⁴ *ibid.*

³⁵ Joyful Heart Foundation, 'Effects of Domestic Violence' (*Joyful Heart Foundation* 2015) <<http://www.joyfulheartfoundation.org/learn/domestic-violence/effects-domestic-violence>> accessed 7 August 2015.

³⁶ Women's Commission, 'Women's Safety in Hong Kong, Eliminating Domestic Violence' (Women's Commission in Hong Kong 2009) <<http://www.women.gov.hk/download/library/report/Safety-Supp.pdf>> accessed 7 August 2015, 26.

³⁷ Douglas Brownridge and others. 'Pregnancy and Intimate Partner Violence: Risk Factors, Severity, and Health Effects' (University of Nebraska 2011) <<http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1158&context=sociologyfacpub>> accessed 7 August 2015. The Government has launched Comprehensive Child Development Services in phases since July 2005 to identify at-risk pregnant women, families with psychological needs, and pre-primary children with physical, developmental and behavioural problems, 31.

³⁸ Association for Concern for Legal Rights of Victims of Domestic Violence, 'Re: Shelter service for Ethnic Minority Victims of Domestic Violence and Sexual Violence' (2015) LC Paper No. CB(2)824/14-15(11) <http://www.legco.gov.hk/yr14-15/english/panels/ws/ws_dv/papers/ws_dv20150209cb2-824-11-e.pdf> accessed 7 August 2015.

³⁹ *ibid.*

⁴⁰ Puja Kapai, 'Understanding and integrating cultural frames' (n 23).

⁴¹ *Ibid.*

⁴² *ibid.*

⁴³ *ibid.*

⁴⁴ Kumaralingam Amirthalingam, 'Women's Rights, International Norms, and Domestic Violence: Asian Perspectives' (2015) 27(2) *Human Rights Quarterly*; Puja Kapai, 'Minority Women: A Struggle for Equal Protection against Domestic Violence' in Beverley Baines, Daphne Barak-Erez and Tsvi Kahana (eds), *Female Constitutionalism: Global Perspectives* (Cambridge University Press 2012) 14.

⁴⁵ This is suggested, for example, by the fact that only a Chinese version of the pamphlet on Batterer Intervention Programme, is available by the Social Welfare Department, see Social Welfare Department – Support for Victims of Child Abuse, Spouse/Cohabitant Battering and Sexual Violence, 'Welfare

Services' (Social Welfare Department of Hong Kong 5 February 2015) <<http://www.swd.gov.hk/vs/english/welfare.html>> accessed 7 August 2015.

⁴⁶ Matthew A Pugh and Arlene Vetere, 'Lost in Translation: An Interpretative Phenomenological Analysis of Mental Health Professionals' Experiences of Empathy in Clinical Work with an Interpreter' (2010) 82(3) *Psychology and Psychotherapy: Theory, Research and Practice* 305.

⁴⁷ Numerous NGO submissions to various human rights treaty bodies of the United Nations have included these complaints.

⁴⁸ Hong Kong Unison Limited, 'Submission to the Panel on Home Affairs in response to the Outline of the Second Report of the HKSAR under the convention on the Elimination of all Forms of Racial Discrimination' (Hong Kong Unison Limited 2007) <<http://www.unison.org.hk/DocumentDownload/R01-Position%20papers/2007/ha0112cb2-914-1-e.pdf>> accessed 7 August 2015.

⁴⁹ *ibid* 7.

⁵⁰ Harvard Medical School, '12 things you should know about common pain relievers' (*Harvard Health Publications*, 26 January 2015) <<http://www.health.harvard.edu/pain/12-things-you-should-know-about-pain-relievers>> accessed 7 August 2015; Ray Sahelian, MD, 'Acetaminophen dosage and benefit, side effects, safety, danger, risks, known by brand name Tylenol' (*Dr. Ray Sahelian, MD.*, 4 February 2015) <<http://www.raysahelian.com/acetaminophen.html>> accessed 7 August 2015.

⁵¹ <http://www.com.cuhk.edu.hk/varsity/0901/periscope2.pdf>, p. 1.

⁵² Hong Kong Council of Social Service, '少數族裔在香港' (*Hong Kong Council of Social Service*, October 2013) <<http://www.hkcss.org.hk/uploadFileMgmt/pb15.pdf>> accessed 5 August 2015, 17.

⁵³ *Ibid*.

⁵⁴ Race Relations Unit, 'Support Service Centres for Ethnic Minorities' (*Home Affairs Department of Hong Kong*, 19 January 2014) <http://www.had.gov.hk/rru/english/programmes/programmes_comm_sscem.html> accessed 1 August 2015.

⁵⁵ For example, see Services for Harmonious Integration & Neighbourhood Empowerment, 'Health Care in Hong Kong' (Christian Action 2012) <http://www.christian-action.org.hk/shine/index.php?option=com_weblinks&view=category&id=44%3Ahealth-care-in-hong-kong&Itemid=102> accessed 7 August 2015.

⁵⁶ Hong Kong Christian Service, 'Centre for Harmony and Enhancement of Ethnic Minority Residents' (Hong Kong Christian Service 2015) <<http://www.hkcs.org/gcb/cheer/cheer-e.html>> accessed 7 August 2015.

⁵⁷ Information obtained through a conversation with a member of staff at the Centre for Harmony and Enhancement of Ethnic Minority Residents on 6 July 2015.

⁵⁸ Urdu, Hindi, Punjabi, Nepali, Thai, Bahasa Indonesia, Tagalog, Bengali, Vietnamese, Korean, Japanese, German, French, Sinhala, Arabic, Spanish, Portuguese, Malay, and Taiwanese.

⁵⁹ Hong Kong TransLingual Services, 'Ethnic Minority Interpretation and Translation Services' (*Hong Kong TransLingual Services*, 2014) <<http://www.hk-translingual.com/new/en/index.php>> accessed 7 August 2015.

⁶⁰ *Ibid*, Urdu, Hindi, Punjabi, Nepali, Bahasa Indonesia, Vietnamese, Thai, Korean, Bengali, Japanese, Tagalog, German, French, Sinhala, Spanish, Arabic, Malay and Portuguese.

⁶¹ In November 2013, a member of the Legislative Council, Professor and the Honourable Mr. Joseph Lee, moved a motion on "Formulating a Medical Policy to Support Ethnic Minority Elderly People" to urge the Government to address issues of healthcare faced by ethnic minority elderly. In January 2014, the Government published a progress report (the Progress Report) setting out measures implemented and follow-up action taken by the Government in response to the motion: see Food and Health Bureau, 'Progress Report for Motion on "Formulating a medical policy to support ethnic minority elderly people"' at the Legislative Council meeting on 27 November 2013' (Legislative Council 2014) <<http://www.legco.gov.hk/yr13-14/english/counmtg/motion/cm1127-m3-prpt-e.pdf>> accessed 7 August 2015, para 3.

⁶² *ibid*, para 4.

⁶³ Puja Kapai, 'Understanding and integrating cultural frames' (n 23).

⁶⁴ Food and Health Bureau, Progress Report (n 61) para 4.

⁶⁵ Food and Health Bureau, 'Existing and planned measures on the promotion of equality for ethnic minorities' (Food and Health Bureau 2015) <http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/aggre/FHB-Medical_and_Health-e.pdf> accessed 7 August 2015.

⁶⁶ *ibid* para 5.

⁶⁷ On 15 October 2014, the Secretary for Food and Health, Dr. Ko Wing-man responded in a Legislative Council Meeting to a question regarding steps taken by the Hospital Authority to deal with language barriers facing ethnic minorities in seeking appropriate medical treatments: Government Information Centre, 'Steps Taken by HA Regarding Language Barriers Reply' (Hong Kong SAR Government 2014) <<http://www.info.gov.hk/gia/general/201410/15/P201410150649.htm>> accessed 7 August 2015.

⁶⁸ *ibid*, para 6.

⁶⁹ *ibid*.

⁷⁰ *ibid*.

⁷¹ Food and Health Bureau, Progress Report (n 61) para 10.

⁷² Hospital Authority, 'Hospital Authority Ethnic Minority Website' (*Hospital Authority of Hong Kong*, 2015) <<http://www3.ha.org.hk/em/>> accessed 7 August 2015.

⁷³ *ibid* para 11.

⁷⁴ Martin Jacques, 'It seemed impossible, but at last Martin Jacques got justice for the wife he loved' *The Guardian* (London, 4 April 2010) <<http://www.martinjacques.com/articles/it-seemed-impossible-but-at-last-martin-jacques-got-justice-for-the-wife-he-loved/>> accessed 7 August 2015.

⁷⁵ Settlement in Hong Kong Case, Leigh & Day, < <http://www.leighday.co.uk/News/2010/March-2010/Settlement-in-Hong-Kong-case>> accessed 28 August 2015.

⁷⁶ KELY Support Group and Department of Applied Social Sciences of the Hong Kong Polytechnic University, 'More than half of ethnic minority youths are at risk of drug abuse among other findings in ground-breaking research' (*KELY Support Group*, 27 May 2012) <http://www.kely.org/assets/files/PDF/Press%20Release/Press%20Release_Report%20Launch%20for%20Stand%20Up%20and%20Say%20Something_English_web.pdf> accessed 7 August 2015.

⁷⁷ Candy Chan, 'Minorities missing out in war on drugs' *The Standard* (Hong Kong, 28 May 2012) <http://www.thestandard.com.hk/news_detail.asp?we_cat=4&art_id=122826&con_type=1&d_str=20120528&fc=1> accessed 7 August 2015.

⁷⁸ Shirley Zhao, 'Drug use on the fringes', *TimeOut News* (Hong Kong, 2 July 2012) <<http://www.timeout.com.hk/big-smog/features/51903/drug-use-on-the-fringes.html>> accessed 7 August 2015.

⁷⁹ *ibid*.

⁸⁰ Kwok-leung Tang, Hung Wong and Chau-kiu Cheung, 'A Study on the Drug Abuse Situation among Ethnic Minorities in Hong Kong' (Department of Social Work at the Chinese University of Hong Kong and Unison Hong Kong 2006) <http://www.nd.gov.hk/pdf/executive_summary_eng.pdf> accessed 7 August 2015.

⁸¹ *ibid* 27.

⁸² *ibid* 28.

⁸³ *ibid* 3.

⁸⁴ 'Drug use on the fringes' (n 78).

⁸⁵ *ibid* 57.

⁸⁶ 'Drug use on the fringes' (n 78).

⁸⁷ *ibid* 29.

⁸⁸ 香港工人健康中心, 天主教香港教區教區勞工牧民中心(九龍), '香港少數族裔共融職業健康行動研究報告' (社福智匯平台 2011) <<http://c4e.hkcass.org.hk/chi/research.php?n=5>> accessed 7 August 2015.

⁸⁹ *ibid* at 3.

⁹⁰ *ibid* at 5.

⁹¹ *ibid*.

⁹² *ibid* at 8.

⁹³ *ibid* at 12.

⁹⁴ *ibid* at 7 - 8.

⁹⁵ Charles R Ridley, *Overcoming Unintentional Racism in Counselling and Therapy* (Sage Publications 2005).

CHAPTER 8: CRIME AND LAW ENFORCEMENT**OVERVIEW**

In this chapter, we explore issues of crime and criminal justice involving ethnic minorities generally. The failings of the Hong Kong education system, the lack of equal opportunities in employment and the resulting social exclusion play an incontrovertible role in the systemic marginalisation of young ethnic minorities. There is a need to study the impact of these circumstances to explore any causal links to the situation of criminal justice involving ethnic minorities. More generally, however, this chapter also concerns itself with accessibility to legal remedies and justice in cases involving ethnic minorities.

The number of ethnic minorities arrested for criminal offences appears to be on the rise. It is unclear however, what percentage of the arrests lead to convictions and for which crimes. If we pay heed to what the figures reveal, the systemic disadvantage in education and employment are contributing factors to a growing problem of crime, involvement in youth gangs and drugs. The fact that some of these crimes are gang crimes reinforces the view that to some extent, the criminal activities stem from social exclusion. It is a worrying phenomenon because increasing numbers of ethnic minority youth have become recruitment ‘targets’ of Triads, who are taking advantage of the vulnerability of this group of youngsters. Many of them try drugs when offered and become addicted. To feed the addiction, they become drug peddlers dealing small quantities at first, and then begin moving larger amounts.

On the other hand, the criminal justice system, whose very aim is to administer justice equally and fairly, is systemically discriminatory towards ethnic minorities. The many flaws and imperfections in the criminal justice system result in exacerbated unfairness to ethnic minority defendants, who deserve equal protection of their fundamental rights before the law, just as anyone else. Racial profiling, the abuse of ‘stop and search’ powers, erosion of the right to silence and wrongful arrest and detention are frequent complaints levied against police, correctional services, customs and immigration officers. These patterns of discrimination have shattered the trust of ethnic minorities in law enforcement officials. In the courtroom, the language barrier almost automatically strips a convicted ethnic minority of a full range of ‘softer’ sentencing options, such as probation order, rehabilitation, detention or training centre orders, thereby simultaneously undermining their chances to rehabilitate and reintegrate into the society after they have served their sentence.

Crimes involving ethnic minorities and the treatment of ethnic minorities in the criminal justice system in Hong Kong are under-researched. In the absence of coherent and detailed research on the subjects, the current understanding of the situation is based primarily on individual cases reported to front-line workers¹, newspaper reports and certain raw data.

As noted in the Key Demographic Data chapter of this Report, the proportion of ethnic minorities aged below 15 (“Ethnic Minority Youth”) in Hong Kong is significantly higher than that of the whole population of Hong Kong. In particular, almost 40% of the Pakistani population is aged below 15. With such a significant proportion of Ethnic Minority Youth in Hong Kong, which far outnumbers the rest of the population in that age group, they warrant particular attention.

A. CRIME

A.1 Number of Arrests for Crimes, Triads and Ethnic Minorities

During the period 2005 to 2014, the number of arrests for crimes involving ethnic minorities has steadily grown, barring one or two dips in intervening years, as reflected in *Table 8.1* below. During the period 2005 to 2014, the number of arrests involving ethnic minorities disaggregated by types of crime is presented in *Table 8.2* below. *Graph 8.1* shows the number of ethnic minorities arrested between 2005 and 2014 by type of crime.

From 2011 to 2012, Yuen Long and Yau Tsim Mong districts saw an increase in the number of crimes involving ethnic minorities. The type of crimes ranged from theft, shoplifting, common assault to assault occasioning grievous bodily harm.²

Fermi Wong Wai-fun, Founder and the former Executive Director of Hong Kong Unison felt that the increased involvement in criminal activities among ethnic minorities was attributable to the lack of government support and the inadequacy of social policies to cater to the specific needs of ethnic minorities. In particular, the lack of language support (making various services and opportunities inaccessible) and scant employment opportunities, rendered ethnic minorities unable to earn a living through participation in the labour force. As a result some marginalised ethnic minorities turn to illegal gangs to earn 'fast' money.³

James Lung Wai-man, executive officer of Hong Kong Community Development Network highlights that the language barrier discourages Nepalese youth from engaging in activities at community centres. Instead, they tend to gather in parks and other public places, thereby increasing the chances of them being approached by Triad members.⁴

Table 8.4 below shows the number of crimes in Yau Tsim Mong District and Yuen Long District in 2011 and 2012 (January to July) in general and those involving ethnic minorities.⁵

Gang-related violent crime involving ethnic minorities has recently been in the news:

- In July 2012, two Nepalese young men were attacked by 15 Nepalese men at King George V Memorial Park;⁶
- In August 2012, a fight broke out among 60 South Asians in King George V Memorial Park, 9 of whom were arrested for unlawful assembly and 12 were arrested for possession of an offensive weapon;⁷
- In September 2012, a young man and his father were brutally attacked and robbed by 20 South Asian youths in Yuen Long;⁸
- Another fight broke out in September 2012, where a 19-year-old Nepali youth was killed during a Nepali gang fight with 20 to 30 men in Yuen Long.⁹

Table 8.1 Number of Arrests for Crimes Involving Ethnic Minorities, Disaggregated by Age

Age Group	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
10-15	72	100	109	150	188	171	216	169	199	152
16-20	198	188	206	239	238	217	239	295	250	242
21+	2927	3212	3289	3415	3399	3407	3555	3671	3637	3622
Total	3197	3500	3604	3804	3825	3795	4010	4135	4086	4016

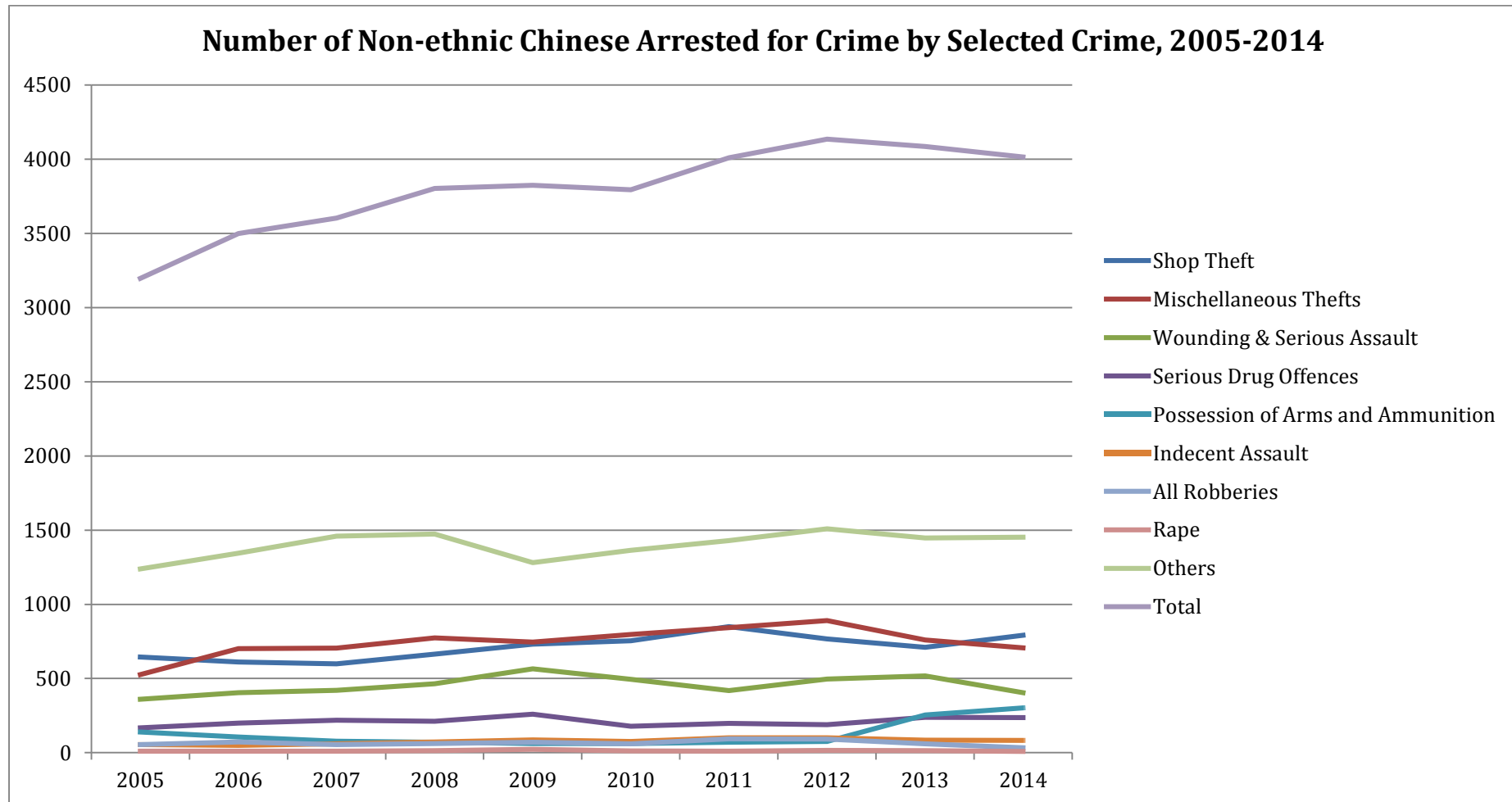
Source: Hong Kong Police Department

Table 8.2 Number of Arrests for Crimes Involving Ethnic Minorities, Disaggregated by Type of Crime

Crime	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<i>Shop Theft</i>	644	612	598	665	731	754	849	767	711	791
<i>Miscellaneous Thefts</i>	526	702	704	773	746	797	842	891	760	706
<i>Wounding & Serious Assault</i>	360	404	421	464	566	494	418	496	518	404
<i>Serious Drug Offences</i>	168	199	219	212	259	178	198	189	239	237
<i>Possession of Arms and Ammunition</i>	140	105	78	70	62	62	71	75	254	302
<i>Indecent Assault</i>	54	50	59	72	87	75	100	100	84	82
<i>All Robberies</i>	55	72	55	62	70	59	93	92	59	33
<i>Rape</i>	11	11	11	13	23	12	10	16	14	8
<i>Others</i>	1239	1345	1459	1473	1281	1364	1429	1509	1447	1453
Total	3197	3500	3604	3804	3825	3795	4010	4135	4086	4016

Source: Hong Kong Police Department

Graph 8.1 Number of Ethnic Minorities Arrested Between 2005 and 2014, by Type of Crime



Source: Police Department of Hong Kong 2015

Table 8.3 Number of Crimes in Yau Tsim Mong District and Yuen Long District in 2011 and 2012 (January to July) in General and those Involving Ethnic

	Yau Tsim Mong District		Yuen Long District	
	2011	2012 (Jan – July)	2011	2012 (Jan – July)
Total no. of crimes	5,800	3,074	6,051	3,395
No. of crimes involving ethnic minorities (%)	105 (1.81%)	83 (2.7%)	251 (4.1%)	183 (5.4%)

Source: Oriental Daily

Although attempts were made to obtain data related to crimes committed as disaggregated by ethnicity, such records have not been maintained. The only available data provided pertains to arrests made as disaggregated by type of crime and ethnicity. This data is not representative of the crime rates but rather the number of arrests made where suspicion arose regarding the commission of crimes. This data may be explained by a number of factors including, an increase in the population of ethnic minorities, additional police resources allocated to tackle specific crimes, or revised protocols in relation to crime detection and arrest. The data is presented here merely to offer an insight into some of the issues arising from racial profiling and numbers of arrests by type of crime and age groups. More specific data sets are essential in order to formulate an accurate picture of rates of crimes involving ethnic minorities.

The police believed that some of those involved in the fight were Triad members. Increasingly more Nepalese have become the target of 'Triad gangs' recruitment activities, allegedly due to their 'pure' nature and obedience. These 'Triads' attract marginalised youth with drugs and other entertainment benefits, hoping to nurture them as members and ultimately successors in their organisations.¹⁰

Despite this knowledge, the Hong Kong Police Department has not put into place adequate schemes to specifically protect ethnic minority youth from recruitment by Triads although it has instituted general measures, including encouraging students to join the Junior Police Force as a form of extra-curricular activity¹¹ and the appointment of Non-Ethnic Chinese Community Liaison Officers since 2011.¹²

It is noteworthy that the Kwai Tsing police district office launched the "Summit Scheme" in September 2014 with the aim of strengthening ethnic minorities' knowledge of the police force and the integration of ethnic minorities into the general community in the district. In particular, the scheme targets ethnic minority youth and aims to improve their understanding of the police force and strengthen their sense of belonging to the society. Police Training Workshops were tailor-made for ethnic minority youth with the aim of encouraging them to join the police force in the future and to become the bridge of communication between different ethnic minority communities.¹³ It is hoped that similar initiatives will be implemented in other districts, especially those with a large presence of ethnic minorities.

A.2 Drug Abuse and Crime

Drug abuse is a serious problem among ethnic minority youth, who are found to be the most vulnerable to drugs. According to a study conducted by the KELY Support Group and the Polytechnic University's Department of Applied Sciences, 60% of ethnic minority youth respondents stated that they did not know a lot about drugs.¹⁴

Since ethnic minority youth are susceptible to drug abuse, Triads use drugs as a means to control them. They first offer drugs to ethnic minority youth in order to get them addicted. Then, they force ethnic minority youth to participate in crimes in return for an upkeep of their supply of drugs.¹⁵

Ethnic minority youth are especially vulnerable to drug abuse for the following reasons:

- Peer pressure stemming from a strong sense of brotherhood;¹⁶
- Drugs were easily available at Chungking Mansions, a hub for ethnic minorities of various backgrounds in the Yau Tsim Mong district, or simply by telephoning drug dealers;¹⁷
- Desire to escape and seek relief from a society where they feel isolated, lonely and defeated;¹⁸ and
- The small size of ethnic minority communities, which makes it difficult for ethnic minority youth to seek external help¹⁹

An 18-year-old Nepali shared his first-hand experience of how drug dependence 'forced' him to participate in illegal activities.

"I could not find any job after graduating from high school, and so I spent most of my time hanging around with other old friends from school. Initially they bought me meals, showed me around and started giving me drugs. When I became addicted, they asked me to engage in drug-trafficking or I would no longer be supplied with drugs."

The phenomenon of youth gang and Triad participation is not a race-specific issue – marginalised Chinese youth are also attached to gangs and Triads. However, within the solid body of research on youth gangs and their Triadisation in Hong Kong, the specific experience and agency of ethnic minority youth gang members is overshadowed by that of their Chinese counterparts and this needs to be better understood.

B. CRIMINAL JUSTICE

B1. General vulnerability

It is fair to conclude from the reports of frontline workers that ethnic minorities are vulnerable in the current criminal justice regime and their fundamental rights are insufficiently protected. Ethnic minorities experience a sense of powerlessness as an excluded group in Hong Kong society.²⁰ Additionally, owing to language barriers, poor education level as well as unfamiliarity with local legislation, not only are ethnic minorities more prone to transgressing the law inadvertently, they are also vulnerable to wrongful arrest or detention, deprivation of rights and unfair treatment in the criminal justice system.

They have a poor understanding of their legal rights and that such protections are equally accorded to all people, including them.

Ethnic minority victims of crime, for example, were found to display a low level of trust towards police and the judicial system. This may discourage them to seek police assistance for their own protection.²¹

Much is grounded in the discriminatory attitudes that appear to be pervasive among the police force and other law enforcement officers. A study revealed that the attitude of the police towards ethnic minorities is often “rude or discriminatory.”²² This might be attributed to the lack of human rights training for both the junior and senior level police officers. Even though there are departmental instructions and a Training Day package on the Race Discrimination Ordinance (RDO), the Basic Law and other relevant legislations, the materials seem to be limited to “briefing” and “explaining” to the officers the provisions of the legislations and the standard of compliance.²³ In other words, the training does not take a human rights-based approach that would enable the police to appreciate that the limits of their powers stem not from black-letter laws and instructions but the rights of the citizens.

Similarly, although topics on human and civil rights protection, and equal opportunities are available in the Hong Kong Police College’s curricula, whether they are included in the training is subjected to the needs of the programme and the arrangements that can be made to bring relevant experts to speak to the department. This suggests that human rights education is not mandatory.²⁴ The importance of such substantive training being made compulsory for all law enforcement officers is borne out by recent reports and the circumstances underlying on-going litigation involving the Hong Kong Police Force.

B2. ‘Stop and Search’

Ethnic minorities have reported that the police has displayed a brutal attitude and employed abusive language towards them (e.g. by calling them “*sei cha cha*” translating roughly to “freaking Indian boy”). In November 2014, during the Umbrella Movement in Hong Kong, an Indian woman Jessie complained that a male police officer told her to “Go back to India”. Jessie, who was in fact born and raised in Hong Kong, felt offended by the discriminatory words,²⁵ which questioned her belonging to Hong Kong.

Racial profiling is also evident.²⁶ Limbu’s case in 2009 caused public outcry where Limbu, an unarmed Nepalese man, was shot dead by a police constable in Ho Man Tin. Many groups protested against the Coroner’s ruling of the death as a lawful killing. Critics opined that because the policeman only spoke to Limbu in Cantonese and therefore, could not be sure that he understood his warnings, he shot him unlawfully, particularly in light of the fact that the use of force was unnecessary and excessive since Limbu did not pose a threat to public safety at that time and he was not holding any hostages or carrying any lethal weapons.²⁷

Moreover, the stop and search tactics of the Hong Kong Police are questionable. While the frequency of such searches was four times as much as those carried out in New York and London (with more than 1.98 million spot checks last year) by officers there, the searches in Hong Kong are less likely to lead to the detection of a crime. According to Boehler²⁸:

“Only one in 113 searches resulted in the detection of a crime. By contrast, one in nine checks in New York led to the issuance of a summons, while one in 12 checks in London resulted in an arrest in 2011.”

Further, South Asians were much likely to be targeted for searches. Many ethnic minorities complained of frequent identity checks carried out by the police. Kamran Ryed, a 43-year-old Pakistani tailor in Hong Kong reported that he had been stopped 10 times by police patrols in a month, during which they carried out body searches on him in public or asked him to empty his pockets. The frequency of such ‘stop and search’ conduct had started to become a nuisance, said Ryed, who further added that his wife who is Chinese, never gets checked.²⁹

Although there are no independent statistics on whether ethnic minorities are indeed more likely to be stopped and searched by the police, a campaign officer at Hong Kong Unison shared this observation, commenting that, “from my experience, ethnic minority residents tend to face more frequent ID checks.”³⁰

A 31-year-old asylum seeker from the Punjab expressed that he felt insulted in the way the police conducted searches on him. Singh explained that the police checked him almost every day, sometimes more than once. The target of their searches include his bag, his pockets, and on one occasion, his underwear.³¹

“They search me like I’m a drug dealer or an illegal immigrant,” he said.

The police insist, however, that on-street checks and searches are not targeted at specific groups of people, either by ethnic origin or social grouping.³²

In Hong Kong, police powers to ‘stop and search’ are broad and governed by s.54 of the Police Force Ordinance (“PFO”). Under s.54 (1) of the PFO, a police officer may stop, detain and search (for anything that may present a danger) any person behaving suspiciously. Whether someone is considered to be behaving suspiciously depends on the police’s subjective judgment, although the police must be able to point to some factual grounds and evidence to support their suspicion.³³ Section 54(2) additionally provides wider search powers which allow police officers to search for anything of value to the investigation of any offence when there is reasonable basis for suspecting that a person has committed, is about to commit or is intending to commit an offence. This subsection is tested against an objective standard and the police officer relying on this subsection must have a particular offence in mind and must not base his decision upon mere suspicion and speculation.³⁴

Misuse of the power of ‘stop and search’ can easily become a tool of oppression against ethnic minorities.³⁵ One only needs to take note of developments in the United States of America or in the United Kingdom since the 9/11 terrorist attacks and the 7/7 bombings in London to see a significant rise in the trend towards racial profiling in the guise of national security. However, in practice, given the wide formulation of the basis of the police’s stop and search powers, it will often be difficult to prove whether the police’s decision was a legitimate one uninfluenced by irrelevant factors, such as a person’s race. This has important negative connotations for ethnic minorities and raises questions about police legitimacy. More crucially, it impacts trust between communities, often resulting in a fear of the police even in times when ethnic minorities need assistance – they worry that they will end up in trouble with the police.³⁶

The RDO purportedly does not generally apply to the police due to the omission of any reference to conduct of government bodies that amounts to the exercise of government functions and powers, as discussed in the The Rights of Ethnic Minorities under the Law in Hong Kong: Equality and Non-Discrimination chapter of this Report.

This is another reason why much hope hangs over the outcome of the case of *Arjun Singh*³⁷ to see how the courts decide on the question of the applicability of the RDO to the conduct complained of and the validity of the argument that the RDO does not cover police conduct in the execution of its powers and functions. Such a position is untenable as being contrary to Hong Kong's international human rights obligations under ICERD.

B3. Wrongful Arrest and Detention

Tahir Khan, a 19-year-old Pakistani complained of his apparently wrongful detention for one year. Khan was charged in 2012 with assault with intent to rob contrary to section 10(2) of the Theft Ordinance. He was denied bail because of the seriousness of the offence. However, after a year, including time for an adjournment sought by the police to collect evidence, the court held that Khan had no case to answer and he was freed from detention. Although the evidence as it stood did not point to a conclusion that the arrest was 'wrongful' *per se*, at the very least the police and prosecution should not have deprived a suspect of his freedom if the evidence against him was not strong enough.³⁸

Hong Kong Unison has reported on various other issues encountered by ethnic minorities in the course of their arrest, for example the failure to administer the caution statement to ethnic minority suspects before arrest, wrongful arrest on account of mistaken identity, wrongful use of handcuffs and the non-use of ski masks to protect their identities, among other infractions of the basic rights of ethnic minority suspects³⁹, all rights which are safeguarded under the Hong Kong Bill of Rights Ordinance and as to which, police guidelines for practice are firmly in place.

B4. Procedural Abuse: Deprivation of Fundamental Rights

Fermi Wong Wai-fun, a registered social worker and a former Executive Director of Hong Kong Unison collated case histories of clients over the years and shared insights into the unpleasant and unfair treatment of ethnic minorities suspected of a crime at the hands of the police and as they undergo the legal process from statement-taking to arraignments to trial. The documented anecdotal evidence is case-based and although not collected systematically with a view to ascertaining a pattern of discrimination, these observations raise fundamental concerns as to whether the basic rights of ethnic minorities are equally protected if differential treatment is extended owing to stereotypes that ethnic minorities are likely to be guilty of an alleged crime or involved in illegal activities being prevalent among the police.

Although the compilation of anecdotal evidence by Hong Kong Unison is the only publicly documented and available information at this time⁴⁰ the serious nature of the patterns of behaviour, attitudes and handling of ethnic minorities on the part of the police towards the case study sample bears significant implications for police education and training to enhance the prospects of equal treatment and to eradicate racial and discriminatory stereotypes that put the fundamental rights and liberties of ethnic minorities at risk.

Right to Silence

The right to silence and the right against self-incrimination are fundamental rights guaranteed to every suspect of a crime.⁴¹ These rights are operative in both, pre-arrest and post-arrest stages, and are protected by mandatory rules which require the police to caution a person *as soon as* the officer has evidence which would give him reasonable grounds for suspecting that he or she has committed an offence. The caution statement must make it

clear to the suspect that he *is not obliged to say anything unless he wishes to*, and that anything said may be put into writing and presented as evidence in a court of law.⁴²

In practice, ethnic minorities are seldom aware of or informed of this fundamental right due to the language barriers or other reasons, most notably, their unfamiliarity with the law and their rights and the discriminatory attitudes of police officers.

Hong Kong Unison has reported on the oppressive conduct of police officers. According to Hong Kong Unison, ethnic minorities are vulnerable to self-incrimination due to the following factors:

- In some cases, even when ethnic minorities are advised of their right to remain silent, they dare not exercise this right for fear of unknown consequences;
- Some ethnic minorities underappreciate the importance of exercising this right as a result of being misled into believing that the offence that they are charged with is not that serious; or
- Some police officers make false promises or threats to induce suspects to make and sign statements, and when these statements are made, the police refuse to give a copy of the statements to the suspects.⁴³

These practices grossly infringe a suspect's right to silence, and are against the rule that statements made by suspects must be voluntary and made or obtained in the absence of inducement or threat. A person who makes a statement should also be entitled to a copy of any such statements made.⁴⁴ These are all serious violations of the Rules and Directions for the Questioning of Suspects and the Taking of Statements 2012.

These deceptive and oppressive tactics deployed by the police suggest that they may be designed to trick the suspect into revealing information they need not reveal, especially in the absence of legal advice. The use of such tactics may belie a disturbing reality: the underlying stereotype that ethnic minorities are criminals appears to inform the approach of the police. If these oppressive practices become routinely deployed towards ethnic minorities without scrutiny, they may risk becoming rampant because the victims may not know any better.

The use of interpreters in relation to the making of statements to the police has also proved to be very problematic.

- There are insufficient qualified interpreters to act as an effective communicator between the police and ethnic minority suspects;
- Some interpreters display blatantly unprofessional attitudes towards ethnic minorities. They act as if they are part of the police force and even scold ethnic minority suspects;
- Some interpreters engage in selective listening or interpretation of the statements made by suspects, producing misleading and inaccurate statements that may be detrimental to the suspect's case;
- Some interpreters refuse to alter or add information at the suspect's request even after they learn of their errors or mistakes.⁴⁵

Right of Access to Lawyers

The right of access to legal advisors is also a fundamental human right. Under the law, no person shall be denied access to a legal adviser save in extremely exceptional circumstances.⁴⁶

In practice, many ethnic minorities are unable to enjoy this right due to information gaps. While the duty lawyer scheme (“DLS”) is aimed at providing affordable legal services to defendants, many ethnic minorities do not know of the scheme. Very often, therefore, no legal assistance is provided to them. Moreover, since the DLS does not provide representation to suspects in the police station, by the time the cases reach the courts, the ethnic minority suspects might already have made self-incriminating statements. Reportedly, in some instances, the police make adverse remarks questioning whether ethnic minorities can afford a lawyer.⁴⁷

Right to bail

The right to bail is an important right, premised on the presumption of innocence, and specifically, that no person shall undergo imprisonment or punishment until he or she has been adjudged guilty.⁴⁸ Although this is not an absolute right in that it is subject to the court’s discretion, a statutory presumption that every suspect shall be entitled to bail is presently in place.⁴⁹

The experience of ethnic minorities, however, shows that they often have to wait for an unreasonably long period of time for the extension of bail due to the unavailability of interpreters in general. At other times, the renewal of bail is delayed because the police officer in charge is busy or the file has not been prepared in time. These arguably constitute unreasonable infringements of a suspect’s right to bail.⁵⁰ The informational and accessibility gap that result from the lack of effective resources in relation to legal advice and access to an interpreter, hinders timely access to justice for an already vulnerable group in society. Moreover, the prospects of being forced to spend time behind bars for reasons of administrative inefficiency or a lack of adequate resources to enable speedier access to this group raises fundamental issues about fairness and due process.

Rights as a detainee

A detainee is entitled to reasonable provision of food, water and clothing. Ethnic minority detainees have reported, however, that their requests pertaining to these needs, were sometimes ignored or turned down by police officers. The predominantly Chinese environment in imprisonment and detention facilities also means that all the rules, regulations, notices as well as warnings are incomprehensible to ethnic minorities, rendering them vulnerable to unfair treatment and deprivation of their most basic entitlements and liable to routine infractions of prison rules due to their lack of knowledge of them. Some detainees’ family members also expressed frustration due to the police’s unreasonable refusal to answer their enquiries about the detainee.⁵¹

B5. Sentencing Options

Sentencing options are exclusively a matter for the judge. However, in appropriate circumstances, the judge will call for a probation officer’s report to consider whether a non-custodial sentence might be appropriate for a particular defendant. In doing so, a judge is not bound by the report but it is open to him to consider the recommendations of the probation officer.

In the case of ethnic minorities, probation officers have reportedly been biased in their recommendations and often refuse to recommend probation orders as an alternative to custodial sentences on the ground of ‘language barrier’, when an immediate justification is

found to be lacking.⁵² The same appears to be true for other ‘softer’ sentencing options, such as enrolment into a Rehabilitation Centre, Detention Centre or Training Centre.

In *HKSAR v. Chochanga*, the magistrate sentenced a young first-time offender of ethnic minority background to 5 months’ imprisonment for simple possession of dangerous drugs. On appeal, the sentence was overturned because it was manifestly excessive and the appellate judge ordered the defendant to be placed on Probation for a 12-month period instead. The appellate judge nevertheless noted that an offender’s ability to participate *fully* in these programmes would be a vital and deciding factor in determining what sentencing options are appropriate.⁵³ This is likely because while alternative sentences focus on the rehabilitation and reintegration of the offender into society, the fact that the programs are primarily designed with Chinese convicts in mind, means they can potentially fail to have the desired impact in achieving these goals for non-Chinese offenders.

As such, the language barrier faced by ethnic minorities can potentially deprive ethnic minority defendants of a number of alternative sentencing options (to imprisonment) that would have been suitable for and available to them *but for* the language barrier. As a result, ethnic minorities may receive harsher sentences for lack of appropriate alternatives. The disparate treatment and negative experiences in prison can potentially increase their likelihood of reoffending. While language ability no doubt affects the effectiveness of the administration of a certain rehabilitation programme, this does not in itself justify a differential treatment of ethnic minorities in being considered for other forms of sentencing, especially where the only remaining option is imprisonment. This issue warrants serious attention as imprisonment is recognised as a heavy penalty. The ‘clang of the prison gates’ is always to be reserved for more serious crimes since it has a life-altering impact on individuals, especially young offenders from marginalised communities.

Further, it is also hard to justify the differential treatment because there is no attempt to make the alternative sentencing options more suitable for them (e.g. through running equivalent schemes in a language understood by them). This reflects the lack of initiative and commitment to overcome the language barrier even when the stakes are high. Ultimately these systemic failings in the criminal justice system undermine the equal rights of ethnic minorities, thereby endangering their right to defend themselves against criminal charges. This may result in a higher chance of conviction due to an ineffective defence strategy or a lack of recourse to effective and timely legal advice or interpretation to present the defence properly. This, in turn, fuels the stereotype of ethnic minorities as criminals and allows attitudes of exclusion and indifference to fester at all levels of society.

B6. Access to Justice

The challenges described are evident from the barriers to access to justice faced by ethnic minorities on a routine basis. These manifest themselves at various junctures in the justice system, including:-

- Registration of formal complaints against perpetrators of crimes in which they are victims;
- Lack of relevant information and understanding of procedures and formalities required from the moment of reporting to the police or filing a legal action through to the workings of the trial;
- Discriminatory or insensitive or culturally inappropriate treatment;

- Giving a statement in relation to their complaint and having the facts captured inaccurately, signalling reasons underlying the lack of trust towards police;
- Giving evidence in court in a language they are comfortable with only to find the interpreter misinterpreting the evidence being conveyed;
- The use of services for protection, assistance or rehabilitation, for example, in instances of domestic violence or drug abuse; and, most notably,
- When they are remanded in custody or suspected of having committed an offence.

As noted above, the language barrier is the primary culprit, exacerbating the lack of access to information about rights of victims, suspects and convicts. There is however, also concern over the role of discriminatory attitudes harboured by relevant personnel who come into contact with members of the ethnic minority communities in such circumstances. These factors coupled with the general access to justice issues that burden the Hong Kong legal system even for the Chinese population makes it much less likely that ethnic minorities would have confidence to seek justice under Hong Kong law. On the whole, these systemic barriers and attitudes combine to grossly undermine equal treatment and access to justice for ethnic minorities as a group. Where a system is faulty by design and invariably presents challenges for particular users, this is a systemic issue affecting users of particular ethnic backgrounds. This directly violates the Government's obligations under international and domestic law in relation to equality and non-discrimination, among various other guarantees.

B7. Rehabilitation and Reintegration of Ex-offenders

Jon So's study highlights the difficulties encountered by ethnic minority offenders in re-entering the society as law abiding and productive members. It was argued that 'rehabilitation' and 'reintegrated' are misnomers in the case of ethnic minority ex-offenders, as they "were never habilitated or integrated into society in the first place" – or into the prison society for that matter.⁵⁴ So's study reveals that around 8 out of 10 of the ethnic minority inmates had no visitors. In the institutions, there is little communication between them and other Chinese inmates or prison officers due to language barrier, making "disconnection" a common theme of their prison life. The social exclusion within the prison and being cut off from family ties has detrimental effects on the psychological health of ethnic minority offenders and their ability to reform.

Even though there are pre-release preparation and re-entry programmes in place for inmates that are due to be released, ethnic minorities are systemically excluded from these programmes due to language barriers, security reasons and general reluctance on the part of correctional officers to initiate contact with them, and as a result, they are deprived of any information, support and preparation in relation to their lives outside the gated walls of prison. This would have a severe and most detrimental impact on drug addicts, who without the necessary support networks and motivation, are likely to relapse upon release. Once returned to the community, a lack of societal support, shaming from within their own ethnic communities, and difficulties in securing paid employment due to their criminal past, contribute to the further marginalisation of ethnic minority ex-offenders. The result is that ethnic minority offenders continue to be punished for their crimes even after they have served their sentence and are unfairly deprived of the opportunity to reform and rehabilitate.

C. REDRESS FOR RACIAL DISCRIMINATION

C.1 Complaints against Police Office (CAPO)

In light of the racial profiling of Hong Kong police, it is alarming to find that the government either was not aware of it or did not perceive it as an issue. This is evident from the fact that the Government did not make any mention of racially discriminatory police practices in its Second Report under the Convention on the Elimination of All Forms of Racial Discrimination, aside from noting that complaining to the CAPO is possible.⁵⁵ In fact, the effectiveness of CAPO to perform its role of investigating ethnic minorities' complaints against the police is highly questionable if discriminatory attitudes are prevalent against ethnic minorities in the police department itself. The role of CAPO and its oversight body, the Independent Police Complaints Council, have recently been the subject of much public discussion in the wake of the Occupy Central movement, which brought to the fore doubts about the CAPO and IPCC's independence in handling police complaints effectively since the members of the relevant councils are predominantly drawn from the force itself, although there are external members.

C.2 Legal Redress

The case of *Martin Jacques and Another v. Hospital Authority*

Harinder 'Hari' Veriah was a UK qualified solicitor and aged 33 at the time of her untimely death. She moved to Hong Kong in 1998 together with her husband, Martin, and infant son, Ravi, after being seconded to an international law firm in the city. On the first day of the millennium, Hari suffered a seizure and was sent to the Ruttonjee hospital, where, in her words to her husband, she was treated as the "bottom of the pile" because of her Indian descent.⁵⁶ The next morning, Hari had another episode of an epileptic seizure and died shortly after. The coroner's court returned a verdict of natural death due to Sudden Unexplained Death in Epilepsy 11 months later.⁵⁷ Unconvinced with the conclusion reached by the coroner's court, Martin filed a civil lawsuit against the Hospital Authority alleging racial discrimination and medical negligence. Initially dismissing any misconduct and denying responsibility on its part, the Hospital Authority at long last offered a substantial settlement to Martin over a decade later, vindicating the allegation.⁵⁸ The outcry sparked by Hari's case has pushed the Hong Kong government, which had been denying the existence of race discrimination in the city for years, to finally legislate an anti-race discrimination law, the RDO, in 2009.

The case of *Arjun Singh v. Hong Kong Police Force*⁵⁹

Hong Kong recently saw its first racial discrimination litigation under the RDO brought by an ethnic minority teen against the police. Arjun Singh, then an 11-year-old Hong Kong-born Indian boy at that time of the incident, was arrested for allegedly assaulting a woman at Wan Chai MTR station in 2010. Singh explained to the police that he only bumped into the woman in a rush and had already apologised to her. He also complained that the woman in turn refused to let him go and grabbed him by the arm leading to his call to the police because she had assaulted and unlawfully detained him. However, the police neglected Singh's showed no interest in his side of the story, being dismissive of his complaint against the woman, and instead advised his mother that they were going to arrest her then 11-year old son for assault.

CCTV footage in the end showed clearly that it was the woman who assaulted Singh and he was not charged. Singh brought a racial discrimination claim against the police officer involved and the Government.⁶⁰ The court has concluded the hearing and the outcome is eagerly awaited and will be scrutinised closely, being the first case litigating the RDO in Hong Kong. The decision will undoubtedly have significant implications for the future of claims brought under the RDO.

KEY OBSERVATIONS

Overall, these intricate issues and barriers to justice make the legal system an inaccessible vehicle for the peaceful resolution of disputes for ethnic minorities as a community and indeed, gives them cause to fear law enforcement should they wind up being suspected of being involved in a crime. Not only do the attitudes, stereotypes and violations outlined above reinforce inequalities in protecting their rights and interests to life, property and dignity, it undermines confidence in the legal system of Hong Kong among the ethnic minority community. This may result in the communities resorting to other methods for resolving disputes that may arise between them and others in society. This is unhealthy for the rule of law and the legal system as a whole as any system of rough justice in a developed city like Hong Kong would be perceived as a marker of the Government's failure to address injustice under the formal system. Moreover, there are graver consequences for those victimised or marginalised by the system due to their colour, ethnicity or national origin who risk being deprived of their liberty and excluded from society in the future. This will fuel contempt in the minds of those who have suffered injustice at the hands of a system purporting to dispense justice and no doubt, encourage and potentially cause recidivism or resort to a life of crime.

From a law enforcement perspective, these findings of rates of arrest, the about-turn of the police response in the case of *Arjun Singh*, as well as the findings from Kapai's 2015 study on Domestic Violence discussed in Chapter 6 on Family, Marriage and Domestic Violence, reveal the possibility that racially prejudicial attitudes and negative stereotyping may be the driving force behind some of these patterns. More crucially, for women in need of assistance in situations of domestic violence, the fact that they lack confidence in the legal system and law enforcement officers suggests a less than satisfactory public relations situation insofar as ethnic minorities are concerned. This needs considerable work and effort in order to build trust and address stereotypes and root out prejudice. The failure to do so could have life-altering consequences for those caught up in the legal system or process for the wrong reasons.

RECOMMENDATIONS**1. Raising awareness about legal rights among ethnic minorities**

- Public education is crucial to help increase ethnic minorities' awareness of local laws and their rights, especially for youngsters who are easily mobilised by Triad members to commit crimes or may be profiled by the police as suspects for various offences;
- It is also important to educate them about their fundamental rights in the criminal justice system to lower the risk of procedural abuse by the police.

2. Mandatory Human Rights training among Law Enforcement officers (including immigration, customs and auxiliary force officers), Lawyers and members of the Judiciary

- Human rights training and education must be provided to police officers at all levels, before whom ethnic minority suspects are most vulnerable.
- There must be guidelines in the criminal justice system to eliminate even the slightest risks of any racially discriminatory practices.
- Awareness of racial prejudice must also be raised among lawyers and judges, who play a vital role in upholding justice and protecting the fundamental rights of suspects and detainees.

3. Interpretation – accredited services required and training on ethics for interpreters

- The existing duty lawyer scheme must be made more readily accessible to ethnic minorities through the provision of information about the scheme and also, quality interpretation services in order to safeguard their right to legal representation.

4. Reform of sentencing options and non-incarceration options for Ethnic minorities

- Rehabilitation programmes that are suitable for ethnic minorities, taking into account their language skills, should be designed and implemented so that they are not systemically and unfairly excluded from non-incarceration sentencing options.

5. Broader systemic issues relating to integration, access to higher and quality education and employment opportunities

- Having lost faith and hope, and faced with prospects of poverty due to challenges faced in employment, some ethnic minority youth resort to drugs for relief or commit themselves to illegal activities to earn a living. What ethnic minority youth need is a fair opportunity to participate meaningfully in the society, without which they will continue to be marginalised.
- This bodes ill for social stability and harmony where a community is continually marginalised until it is pushed to the brink of criminal activity, particularly, its youth. The situation is alarming and calls for policy reform on many levels, from education to social integration, career support, social services and public education on anti-discrimination.

6. Health campaigns to raise awareness about drugs in accessible languages and a widespread media campaign

- Ignorance of the adverse effects of drug abuse renders ethnic minority youth vulnerable to the recruitment strategies of the 'Triads'. Collective efforts from the police, schools, parents and the community are needed to raise awareness of the harmful and long-term effects of drugs among youth.

7. A series of in-depth research studies into ethnic minority youth gangs

- The dearth of research into the specific links between the isolation and exclusion of ethnic minority youth and the potential implications for involvement with crime, drugs and youth gangs calls for designated research studies to look into the complex relationship between ethnic minority youth gangs, criminals and their marginalised position in society and the implications this has for the development and inclusion of ethnic minority youth into broader Hong Kong society and for policy development in relation to youth services and support measures.

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² 鄭宗夏, '探射燈：尼泊爾邊青黑幫生力軍' *Oriental Daily* (Hong Kong, 25 September 2012) <http://orientaldaily.on.cc/cnt/news/20120925/00176_097.html> accessed 13 August 2015.

³ Joanna Chiu, Jordan, Home to a Battling Nepali Community, *South China Morning Post* (Hong Kong, 7 December 2012) <<http://www.scmp.com/news/hong-kong/article/1099239/jordan-home-battling-nepali-community>> accessed 20 August 2015.

⁴ *ibid.*

⁵ When the author approached the police department for updated figures for 2012-2015, the police responded that they do not maintain a record of offenders or the crimes committed by them disaggregated by ethnicity. This appears to be consistent with the reply to a similar request by the Committee on the Promotion of Racial Harmony.

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⁷ 鄭 (n 2).

⁸ The Sun, '南亞 20 童 黨 圖 生 剷 父 子', *The Sun* (Hong Kong) <http://the-sun.on.cc/cnt/news/20120902/00407_010.html> accessed 6 September 2015.

⁹ Apple News, '南亞裔古惑仔染黑南邊圍' (*Apple News*, 15 October 2012) <<http://hk.apple.nextmedia.com/news/art/20121015/18040932>> accessed 6 September 2015.

¹⁰ 鄭 (n 2).

¹¹ Committee on the Promotion of Racial Harmony, Race Relations Unit, Home Affairs Department (9 October 2012).

¹² Simpson Cheung, Police bridge gap with minorities, *South China Morning Post* (Hong Kong, 24 October 2011) <<http://www.scmp.com/article/982747/police-bridge-gap-minorities>> accessed 20 August 2015.

¹³ Sing Tao News, '「高峰計畫」助共融 培訓年輕非華裔警' *Sing Tao Daily* (Hong Kong, 2 February 2015) <<https://hk.news.yahoo.com/高峰計畫-助共融-培訓年輕非華裔警-215632675.html>> accessed 6 September 2015; Hong Kong Police, '葵青警區「高峰計劃」推動非華裔社群參與' (*Hong Kong Police*, 27 January 2015) <<http://www.police.gov.hk/offbeat/1031/chi/2310.html>> accessed 6 September 2015.

¹⁴ KELY Support Group and Department of Applied Social Sciences of the Hong Kong Polytechnic University, 'More than half of ethnic minority youths in Hong Kong are at risk of drug abuse among other findings in groundbreaking research' (*KELY Support Group*, 27 May 2012) <http://www.kely.org/assets/files/PDF/Press%20Release/Press%20Release_Report%20Launch%20for%20Stand%20Up%20and%20Say%20Something_English_web.pdf> accessed 13 August 2015.

¹⁵ 鄭 (n 2).

¹⁶ Shirley Zhao, 'Drug use on the fringes' *TimeOut News* (Hong Kong, 2 July 2012) <<http://www.timeout.com.hk/big-smog/features/51903/drug-use-on-the-fringes.html>> accessed 13 August 2015.

¹⁷ Candy Chan, 'Minorities missing out in war on drugs' *The Standard* (Hong Kong, 28 May 2012) <http://www.thestandard.com.hk/news_detail.asp?we_cat=4&art_id=122826&con_type=1&d_str=20120528&fc=1> accessed 13 August 2015.

¹⁸ Zhao (n 16).

¹⁹ Chan (n 17).

²⁰ Wong (n 1).

²¹ *ibid.*

²² Society for Community Organization, *Hong Kong Racial Discrimination Study Series II: Ethnic Minorities* (Society for Community Organization 2001) 4.

²³ Hong Kong Legislative Council, 'Police committed to tying in with the Government in promoting equal opportunities' (*Information Services Department*, 28 January 2015) <<http://www.info.gov.hk/gia/general/201501/28/P201501280565.htm>> accessed 13 August 2015.

²⁴ *ibid.*

²⁵ Amnesty International, 'Racial Profiling by Hong Kong Police' (*Amnesty International*, 2015) <<http://www.amnesty.org.hk/selma/racialprofilingbyhongkongpolice.html>> accessed 6 September 2015.

²⁶ Patrick Boehler, 'Hong Kong's ethnic minorities complain of racial profiling by police' *South China Morning Post* (Hong Kong, 24 November 2013) <<http://www.scmp.com/news/hong-kong/article/1364083/ethnic-minorities-complain-racial-profiling-police?page=all>> accessed 13 August 2015; Lo Wei, 'Discrimination case: police had 'no interest' in hearing Indian boy's side' *South China Morning Post* (Hong Kong, 9 April 2014) <<http://www.scmp.com/news/hong-kong/article/1471194/teen-claiming-racial-discrimination-suffered-nightmares-after-assault>> accessed 13 August 2015; Lo Wei, 'Police officer in race discrimination case was 'aggressive and threatening', court told' (Hong Kong, 8 April 2014) <<http://www.scmp.com/news/hong-kong/article/1469100/police-officer-race-discrimination-case-was-aggressive-and>> accessed 13 August 2015.

²⁷ Amnesty International (n 25).

²⁸ Patrick Boehler, 'Hong Kong police stop-and-search tactics questioned after 1.6 million spot checks' *South China Morning Post* (Hong Kong, 24 November 2013) <<http://www.scmp.com/news/hong-kong/article/1364087/police-tactics-queried-after-16m-spot-checks-last-year?page=all>> accessed 6 September 2015.

²⁹ Boehler (n 28).

³⁰ *ibid.*

³¹ *ibid.*

³² *ibid.*

³³ *Attorney General v Kong Chung-Shing* [1980] HKLR 533.

³⁴ *HKSAR v Kwan Kin Sum* [2005] 3 HKLRD 830.

³⁵ This is according to Professor Delores Jones-Brown, director of the Centre on Race, Crime and Justice at the City University of New York. Jones-Brown had written on stop and search practices with a racial dimension in New York: Delores Jones-Brown et al, 'Stop, Question and Frisk Policing Practices in New York City: A Primer (Revised)' (Centre on Race, Crime and Justice at the John Jay College of Criminal Justice, 2013)

<http://www.atlanticphilanthropies.org/sites/default/files/uploads/SQF_Primer_July_2013.pdf>

accessed 13 August 2015. Also see: Boehler (n 25).

³⁶ Anecdotal evidence collected by the author and NGOs working with ethnic minority clients confirms this.

³⁷ The case is discussed in detail below under Section C2.

³⁸ *Kong Chung-Shing* (n 33).

³⁹ Wong (n 1).

⁴⁰ *ibid.*

⁴¹ Bill of Rights Ordinance (Cap 383), art 11(2) (g); International Covenant on Civil and Political Rights, art 14(3) (g).

⁴² The Rules and Directions for Questioning Suspects and Taking Statements 2012, r 2.

⁴³ Wong (n 1).

⁴⁴ Rules and Directions for the Questioning of Suspects and the Taking of Statements 2012, direction 8(a) (v).

⁴⁵ Wong (n 1).

⁴⁶ Basic Law, art 35; Bill of Rights Ordinance (Cap 383), art 11(2)(d); International Covenant on Civil and Political Rights, art 14(3)(d); Rules and Directions for the Questioning of Suspects and the Taking of Statements 2012, principle (c), direction 8(a)(i)(ii). The only circumstances in which the police may refuse access to a legal advisor is if it would result in unreasonable delay or hindrance to the process of the investigation or administration of justice. One example is if there are other people involved in the commission of the offence, and giving the suspect immediate access to legal counsel might interfere with the arrest of others or the discovery of stolen property.

⁴⁷ Wong (n 1).

⁴⁸ Basic Law, art 28; Bill of Rights Ordinance (Cap 383), art 5(3); International Covenant on Civil and Political Rights, art 9(3).

⁴⁹ Criminal Procedure Ordinance, s 9D.

⁵⁰ Wong (n 1).

⁵¹ Anecdotal evidence based on input from ethnic minorities or relatives of ethnic minorities who have spent time in prison.

⁵² Wong (n 1).

⁵³ *HKSAR v Chochanga Vabindra* [2003] 3 HKLRD 224, para 12.

⁵⁴ Jon So, 'Fighting a war alone': reintegration of ex-offenders from ethnic minority groups' [2014] 7(1) *China Journal of Social Work* 64, 65.

⁵⁵ Society for Community Organization (n 22).

⁵⁶ Account of the Martin Jacques, husband of the deceased in. See Martin Jacques, 'It seemed impossible, but at last Martin Jacques got justice for the wife he loved' *The Guardian* (London, 4 April 2010) <<http://www.martinjacques.com/articles/it-seemed-impossible-but-at-last-martin-jacques-got-justice-for-the-wife-he-loved>> accessed 13 August 2015.

⁵⁷ *Martin Jacques and another v Hospital Authority* [2007] HKCFI 718.

⁵⁸ *ibid.*

⁵⁹ *Singh Arjun by his next friend Singh Anita Guruprit v Secretary for Justice for and on behalf of the Commissioner of Police and another* [2014] HKDC 199.

⁶⁰ Lo Wei, 'Discrimination case: police had 'no interest' in hearing Indian boy's side' *South China Morning Post* (Hong Kong, 9 April 2014) <<http://www.scmp.com/news/hong-kong/article/1471194/teen-claiming-racial-discrimination-suffered-nightmares-after-assault>> accessed 13 August 2015; Lo Wei, 'Police officer in race discrimination case was 'aggressive and threatening', court told' (Hong Kong, 8 April 2014) <<http://www.scmp.com/news/hong-kong/article/1469100/police-officer-race-discrimination-case-was-aggressive-and>> accessed 13 August 2015; Lo Wei, both articles are at n 26; also see Lo Wei, 'Teenage prodigy sues Hong Kong policeman and government for "racial discrimination"' *South China Morning Post* (Hong Kong, 7 April 2014) <<http://www.scmp.com/news/hong-kong/article/1467001/prodigys-mother-accuses-police-officer-racial-discrimination>> accessed 13 August 2015.

KEY OBSERVATIONS AND RECOMMENDATIONS

The Government insists that there is no evidence of prejudice on grounds of race in Hong Kong or that the existing policies are neutral and, therefore, any negative impact on particular groups is merely incidental or specific to individual circumstances. However, the following findings suggest that serious reflection is needed in order to understand the underlying causes for why ethnic minorities seem, at worst, to be failing or at risk of failing and at best, always faring poorly in all areas of life compared to their Hong Kong Chinese counterparts. That this distinction falls neatly along the lines of race is of significant concern.

CORE AREAS FOR REVIEW OF GOVERNMENT LAW & POLICY

The research findings lead to the following Key Observations:

- There is a growing ethnic minority population under the age of 15: they are going to be tomorrow's productive workforce of Hong Kong. Is the system preparing them well?
- There is a higher number of ethnic minority students are not in school between ages 3 – 5 years when compared with the Hong Kong Chinese.
- There are higher rates of dropout from school between ages 13 and 17 among some ethnic minority groups when compared with the Hong Kong Chinese.
- There is an overrepresentation of ethnic minority children in selected schools. This leads to *de facto* racial segregation.
- There is a lack of Chinese language acquisition amongst ethnic minorities presenting a barrier in multiple areas of life including access to higher education, employment, healthcare, and other services. The lack of proficiency also compromises protection and is a barrier to help-seeking in cases of domestic violence, access to social welfare and police protection or due process rights.
- There is a shockingly low rate of university attendance among ethnic minorities compared to Hong Kong Chinese counterparts.
- There is an overrepresentation of ethnic minorities in elementary occupations.
- The lowest participation in the workforce is among Pakistani women compared with Hong Kong Chinese and other ethnic minority counterparts.
- The largest household sizes are among ethnic minority communities.
- There are shockingly high rates of poverty impacting child and youth ethnic minorities at a significantly higher rate than their Hong Kong Chinese counterparts.
- There is an overall significant difference between poverty rate among the Hong Kong Chinese population and ethnic minorities as a group.
- There are stark differences in median monthly household income between ethnic minorities and Hong Kong Chinese.
- The elderly ethnic minorities continue to work well beyond the retirement age at a significantly higher rate than their Hong Kong Chinese counterparts.
- There is a significantly high rate of domestic violence among the ethnic minority population when compared with the Hong Kong Chinese when accounting for likely

underreporting. There are also worrying reports about a lack of confidence in and satisfaction with the legal process and law enforcement officers, social workers and NGOs.

- There is a shockingly high sex ratio in some ethnic minority groups.
- Interpretation services are being provided and are supported with ample resources but they remain underutilised and language barrier continues to emerge as a core barrier and complaint in relation to discriminatory or substandard treatment.
- Crime rates by age continue to grow for the ethnic minority population.
- There are high levels of prejudice reported towards people of colour. The darker the skin colour (with the exception of Africans), the less accepted there are in different spheres of life.

Each of these trends is closely related and interlinked to other phenomena listed in these Key Observations. This requires us to think broadly about the key policy areas which need a multipronged approach to tackle the interlocking issues effectively. For example, current trends reveal a deeply troubling impact of the exacerbation of situations of poverty due to multiple deficiencies in core areas of life for ethnic minorities, particularly impacts education, employment, living conditions, health and prospects for upward social and economic mobility. The figures reveal differences, however, between ethnic groups. There is a need for targeted interventions to address situations of specific ethnic minority groups. In some instances, there is a need for diversity mainstreaming by accounting for the impact of policies on ethnic minority communities and to break the cycle of intergenerational poverty and entrenchment. To that end, there is a need to address specific needs of ethnic minority groups living below or critically close to the poverty line; to identify individuals and families at critical risk of falling below the poverty line due to particular factors ('at risk' groups); to study the link between childhood poverty and other indicators (including education, employment, and health) and a need to maintain and scale-up the current bottom-up initiatives to facilitate contact with and integration of ethnic minorities into the local community

A reformed approach to diversity management and governance urgently requires taking several and steps forward if we are to stall this ticking time bomb that is spiralling towards a destructive end. At the same time, given that Hong Kong's ageing population is an area of critical concern and that the youngest population group in Hong Kong is predominantly comprised of ethnic minorities, this has important resource implications. This group of Hong Kong youth needs to be nurtured for its talent pool and potential to contribute to Hong Kong and support our elderly.

The Key Recommendations based on the findings of this Report are:**EVIDENCE-BASED POLICY-MAKING**

- An evidence-based approach to informing policy and decision-making is required.
- To facilitate this, a systematic data collection and collation mechanism needs to be rolled out across public service bodies. NGOs need to be brought on board so that their intake processes can be aligned with feeding relevant information into the database.
- Data disaggregated by race, ethnicity, gender, age, and various other variables and the possibility for permutations to better understand the interrelationship between different variables is vital to implement effective evidence-based governance.
- A rights-based approach should be adopted towards the development of policies.
- Cultural sensitivities should be incorporated into the policy-making process, understanding that healthcare, education, employment law and other fields cannot be approached with a one-size-fits-all attitude.
- Regular impact assessment should be conducted to measure outcomes and an outcome-oriented approach should dictate resource allocation going forward. This requires mechanisms for reporting, evaluation and accountability.

**RAISING AWARENESS OF RIGHTS AMONG ETHNIC MINORITIES,
GOVERNMENT OFFICIALS AND CIVIL SERVANTS, NGO STAFF AND ALL
HONG KONG CHINESE**

- A review and immediate reform of existing laws protecting the rights of ethnic minorities, in particular, the Race Discrimination Ordinance is needed and alignment with international best practices is a critically important standard of reference.
- Ethnic minorities need to be made aware of their rights. This requires targeted interventions, timely and accessible information dissemination and support mechanisms.
- Greater trust needs to be developed towards legal, social and other resources (including law enforcement, immigration and other civil service personnel) that are available to assist ethnic minorities.
- Rights related awareness needs to be raised for all Hong Kong Chinese, including government officials, civil servants, NGO staff, teachers, doctors, and other professionals regardless of whether their portfolio of work entails proximate work with ethnic minorities or the issues that impact them.

HUMAN RIGHTS AND CULTURAL SENSITIVITY TRAINING

- Training in Human Rights and Cultural Sensitivity should be mandatory and a regular refresher course should be required for government officials, civil servants, NGO staff, teachers, doctors, and other professionals regardless of whether their portfolio of work entails proximate work with ethnic minorities or the issues that impact them. This is of particular significance for police, lawyers, judges, immigration and customs officers, healthcare and social work personnel, etc.

ENHANCING VISIBILITY AND LEADERSHIP OF ETHNIC MINORITIES

- Set up a high level taskforce, including ethnic minority experts, to focus on review, development, evaluation of policies and laws for their impact on ethnic minorities and to make recommendations for reform.
- Appoint ethnic minorities to advisory and high-level government committees.
- Appoint a high-level minister in the government to be in charge of ethnic minority affairs.
- Groom ethnic minorities to develop skills in political participation so that they can represent their own constituencies in electoral reform processes and during Legislative and District Council elections.
- There need to be regular opportunities for consultation with ethnic minority communities to hear from them about the priority areas that need most urgent attention.
- Develop a mentorship mechanism to facilitate communication and relationship building between senior mentors and ethnic minority youth, including senior ethnic minority members of the Hong Kong community.

CULTIVATING INCLUSIVE CITIZENSHIP AND A HONG KONG IDENTITY

- A review of the Chinese nationality eligibility guidelines should be undertaken, as ethnic minorities are frequently eliminated for trivial reasons.
- Prospects for ethnic minority participation in public life need to be enhanced. Such a drive should start in the classroom to develop a Hong Kong identity in addition to fostering confidence in one's ethnic identity. Facilitating knowledge acquisition about the social, political and cultural life of Hong Kong from a young age will contribute to the development of mutual trust and respect through interaction, intercultural learning and cross-cultural dialogue. This will pave the way for a responsible citizenry that is inclusive of all its counterparts, regardless of ethnicity.
- Revisiting terminology and discourses surrounding ethnic minorities in Hong Kong. Rethinking the use of the term 'ethnic minority' and incorporating aspects of Hong Kong into their identity so that they can legitimate their sense of belonging here without feeling dislocated from both Hong Kong and their place of origin or other home.

- Incorporating the history of ethnic minorities in Hong Kong into textbooks and teaching Hong Kong Chinese children about their counterparts early on.
- Incorporating experiential learning to facilitate intercultural exchange to foster an understanding of cultural and religious identities.
- A citizenship education curriculum is needed to encourage ethical and responsible citizen behaviour towards each other.
- Outside the classroom, spaces for civic engagement should be developed and greater efforts need to be made to encourage ethnic minority participation in such forums.
- Chinese language education must be provided within both the schooling system and as part of workplace training for ethnic minorities. The impact of their inability to speak Chinese has a noticeably detrimental effect on numerous areas of life. Fluency in Chinese is required on all fronts. It relates to our basic accessibility to information and opportunities; without this skill, ethnic minorities cannot learn about their rights, access the services on offer, explain themselves to authorities, find employment, or understand the wider community in which they live.

OUTREACH

- Some groups are living in isolation and are at particular risk during critical phases in life. During these periods, children, the youth and in particular, women, need to be provided with support and mentorship to ensure that they stay the course of maximising their potential.
- For families who are living in poverty, are on welfare or have sought the assistance of the social welfare's family related or other services, it is important to facilitate genuine outreach through network building. In particular, solidarity needs to be fostered by ensuring social embedding in one's locality or neighbourhood.
- Outreach work should involve Hong Kong Chinese individuals and members of the ethnic minority community to enhance the visibility of ethnic minorities in the community and to facilitate trust building.

FURTHER RESEARCH

- Better demographic data disaggregated by ethnicity is needed.
- A number of areas need to be researched and better understood through such disaggregated data, including:
 - Child Poverty
 - Domestic Violence
 - Crime
 - Female infanticide
 - Female circumcision
 - Ageing
 - Elderly working population
 - Child marriage / forced marriage

- Minimum wage
- Special Education Needs
- Religious and Cultural Identities and Practices
- Health patterns of ethnic minority men and women

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