



Submission to LegCo Panel on Administration of Justices and Legal Services
"Free Legal Advice Scheme"

A. Introduction

"Equality before the law" is not true for ethnic minorities in Hong Kong. In the past decade, Hong Kong Unison has helped several hundred ethnic minority residents, mostly young people, who were arrested, detained and brought to the courts. Due to the language barriers, cultural differences, weak sense of their rights, abuse of police power, unprofessional interpreting services and lack of legal information, ethnic minority residents are not treated equally under the law.

B. Ethnic minorities cannot benefit from the "Free Legal Advice Scheme."

1. *Lack of information and publicity on the legal advisory services*

First, the vast majority of ethnic minorities never know and do not have access to information about the "Free Legal Advice Scheme". We have inquired a Legal Advice centre under the Home Affairs Department (HAD). The staff of the centre admitted that there were no leaflets on the Scheme printed in minority languages, nor any publicity program on the Scheme.

2. *Legal Advice Scheme and no translation services*

A staff of an HAD Legal Advice Centre told us that interpretation service was not included in the "Free Legal Advice Scheme". The centre requires the parties to engage their own interpreter or to bring along a friend as interpreter, but most people do not have a friend that has enough language capacity to do the interpretation, nor can they afford a qualified interpreter. They are often rejected in the first step due to lack of interpreter.

3. *The rights of ethnic minorities are not equally respected by the police*

Ethnic minorities being detained or investigated by the police are not given a copy of the "Notice to Persons in Custody" before the interview. The Notice, which explains the rights of the detained person, is only attached to the interview record after the interview. Besides, the police often do not give a copy of the interview record to the ethnic minority suspect.

4. *Not allowed to make external contacts*

Under normal circumstances, the police prohibit the detained ethnic minorities from making external contacts. Many ethnic minorities complained to us that when they were arrested they were not allowed to make any external contacts, including to their family



members. When they requested to contact lawyers, police officers would query and stop them by saying either, “Ah Cha, do you have any money to hire lawyer ?,” or, “No lawyers will be willing to help Ah Cha.”

5. Weak sense of their rights and lack of legal information

Ethnic minorities from the grassroots generally have poor sense of their rights. They are unfamiliar with Hong Kong laws and judicial proceedings and do not know where to seek help. In addition, ethnic minorities have never seen any pamphlets or posters about the Tel-Law; the police never provides such information to the ethnic minority detainees.

C. Our recommendations

To ensure equality in access to justice, the Unison urges the Government to consider :

1. establishing a publicly funded professional legal advice service, instead of relying on the present pro bono service provided by the legal profession;
2. expanding the scope of the service to cover all levels of court, including the Magistrate Courts; to provide legal representation in the police station to the people detained by the police; to sponsor the preliminary work for the application of legal Aid or Judicial Review, including the cost of hiring interpreters ;
3. extending the service from only giving preliminary legal advices to more case-specific advices and detailed analysis of the merits of individual cases and their prospects of winning;
4. establishing community legal advice service centres to facilitate the public (including ethnic minorities) to obtain the service;
5. providing professional training to judicial officers to enhance their racial and cultural sensitivity and to increase their knowledge on the concepts of equal opportunities and discriminations;
6. developing and subsidizing quality professional interpreting services to support the “professional legal advice”, so as to benefit ethnic minorities;
7. promoting the legal advice services to the ethnic minority communities.