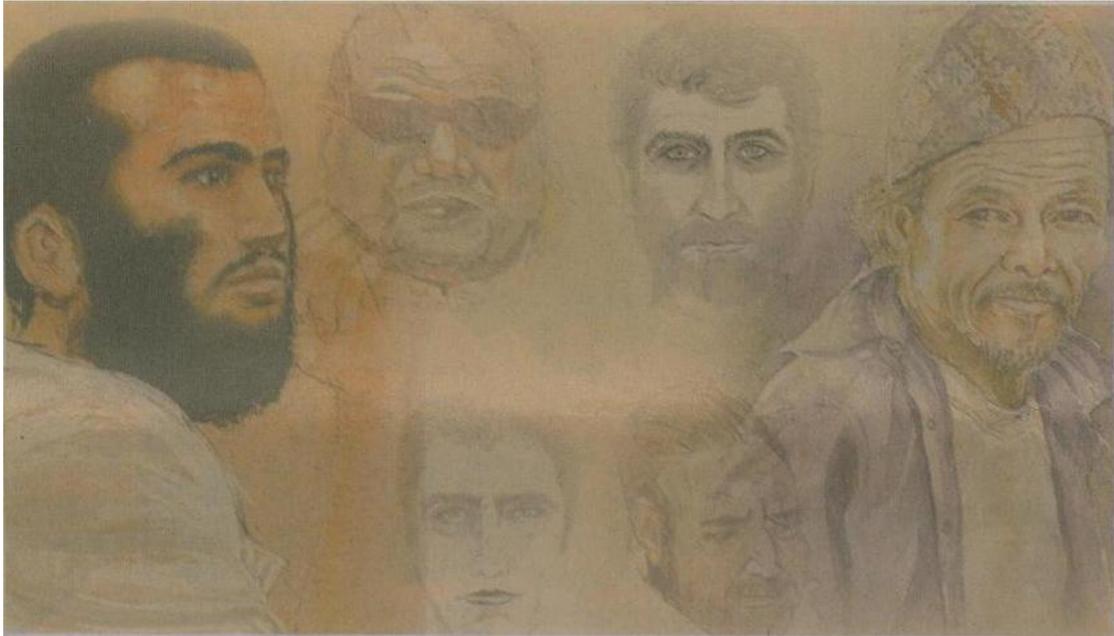


# ‘Partial’ Citizenship: Social Rights and Ethnic Minority Students in Hong Kong

Kerry J Kennedy

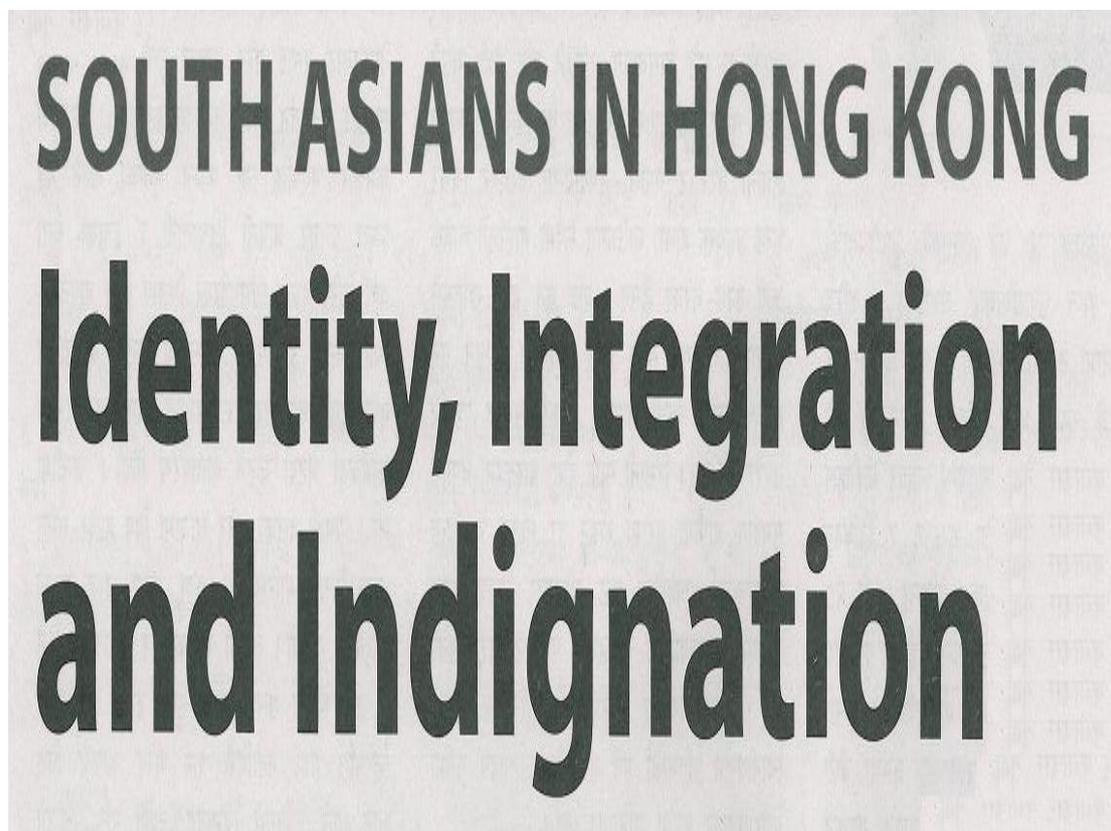


© Ethnic Voice

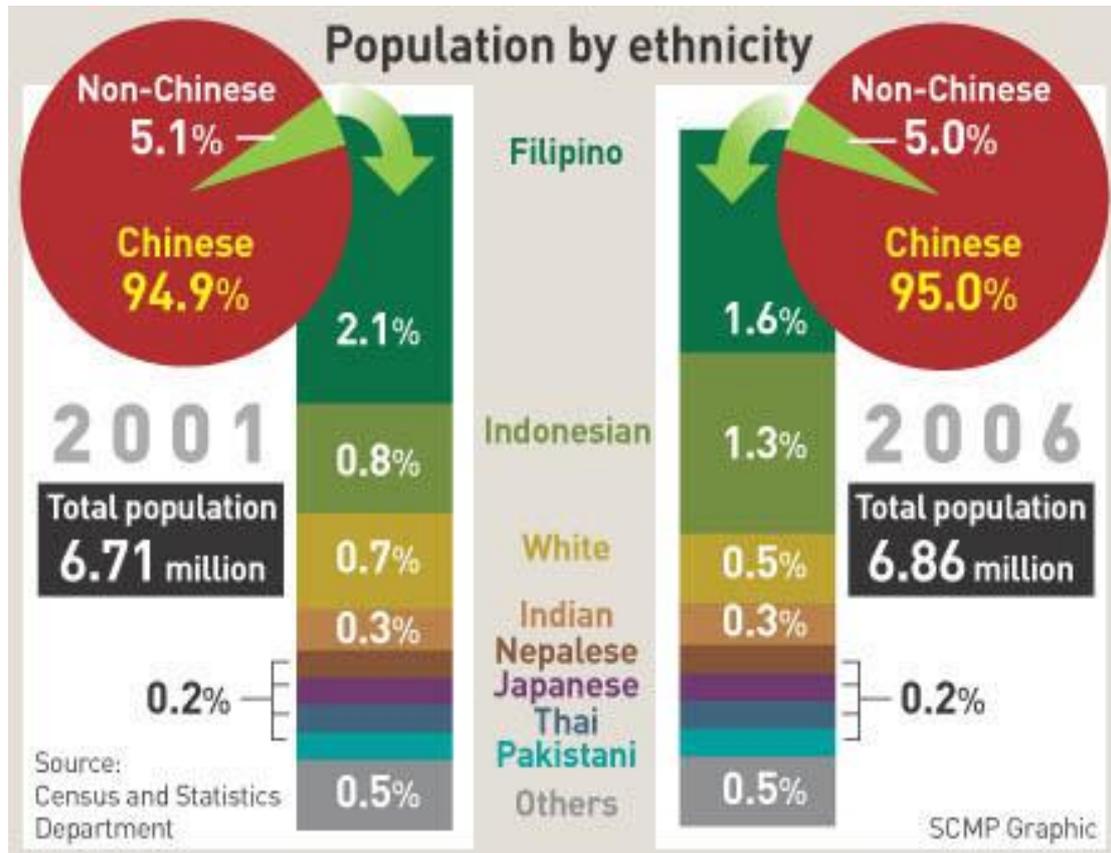
Eighth International Citized Conference, 24th - 26th May 2012, University of  
York, York.

The research reported here is drawn from the General Research Fund project,  
*Exploring Cultural Diversity in Chinese Classrooms: Can Assessment Environments  
Cater for the Needs of Ethnic Minority Students in Hong Kong*, [GRF-HKIEd840809]  
funded by the Hong Kong Research Grants Council. The views expressed here are  
those of the author.

*Ethnic Voice* is an ethnic newspaper in Hong Kong that has recently drawn attention to the situation regarding many ethnic minority people in Hong Kong. It is a strong signal of the extent to which ethnic minorities have become contested in Hong Kong's Chinese dominated society.



The following table shows graphically the nature of the ethnic minority population in Hong Kong in 2001 and 2006 (the most recent census data available). There was little change across these years with some 95% of the population being Han Chinese and the remainder ethnic minorities. The last census was conducted in 2011 and the results are still being prepared.



A few points to note from this graph:

1. The Filipino and Indonesian groups are largely domestic helpers on limited work visas. While their citizenship status is important, and currently quite contested, it is not a focus of this paper.
2. Indian, Nepalese and Pakistani groups will be of most interest in the remainder of this paper. They make up around 0.7% of the total population by the 2006 census figures.

Various data sources have been tapped to try and show how the number of ethnic minorities in Hong Kong (see p.3 above) translate into the education system from preschool to tertiary. Table 1 shows data from 2006-2010.

*Table 1: Ethnic Minority Students at Various Levels of Schooling In Hong Kong*

	2006 <sup>^</sup>	2007-08	2008-09	2009-10
Level				
Pre-primary	6777	9242*	10214*	10013*
Primary	12879	5583*/5671#	6034*	6480*
Secondary	7036	3272*/3097#	3842*	4406*
Sixth form	737			
Post-secondary	1293			
Total	28722			

<sup>^</sup> (Census and Statistics Department, 2007)

\* (Mrs. Shek, Education Officer, Education Commission, EDB.)

# (Hong Kong SAR Government, 2008, pp 6-7)

It should be noted that different sources of data often give conflicting pictures. This is a basic problem for the research to be reported here. The full extent of ethnic minority population is not known because there are inadequate reporting systems. It is not at all clear why numbers would drop so drastically from 2006 (Census data) to 2007/08 (Education Bureau data).

The situation reflected in Table 1 is made even more problematic when ethnic minorities under 15 are reported by specific ethnic groups in Table 2. The numbers here appear to be much greater (over 26000) than the similar numbers (over 17000) shown in Table 1 for 2006. At the present time these discrepancies cannot be explained except to say that until the passing of the Racial Discrimination Ordinance in 2008, it is quite likely that there was little official interest in Hong Kong's ethnic minorities.

Table 2: Ethnic Minorities by Ethnicity and Age group < 15

Ethnicity	Year			
	2006		2001	
	Number	Percentage	Number	Percentage
Asian (other than Chinese)				
Filipino	2467	7.6	2680	7.0
Indonesian	226	0.7	165	0.4
<b>Indian</b>	<b>3695</b>	<b>11.4</b>	<b>3690</b>	<b>9.7</b>
<b>Nepalese</b>	<b>2892</b>	<b>9.0</b>	<b>1305</b>	<b>3.4</b>
Japanese	2867	8.9	3251	8.5
Thai	366	1.1	233	0.6
<b>Pakistan</b>	<b>3826</b>	<b>11.8</b>	<b>3131</b>	<b>8.2</b>
Korean	876	2.7	1423	3.7
Other Asian	721	2.2	736	1.9
sub-total	17936	55.5	16614	43.7
White	6002	18.6	9533	25.1
Mixed				
with Chinese Parent	6177	19.1	9573	25.2
Other Mixed	1887	5.8	2049	5.4
sub-total	8064	25.0	11622	30.5
others	287	0.9	279	0.7
total	32289	100.0	38048	100.0
whole population	939675		1109417	

Source: (Census and Statistics Department, 2007, p. 22-23)

## Citizenship status of ethnic minority students in Hong Kong

- Are ethnic minority students ‘Chinese nationals’?

“In respect of Chinese Nationality Law, it is evident that it is not well equipped to cope with the inclusion of those not of Chinese origin; indeed, it creates an effectively racial barrier.” (White, 1987)

- This problem was clearly identified at the time leading up to the return of Hong Kong to China.

The citizenship status of ethnic minorities (or non- Chinese ‘nationals’) was recognized in British legislation on the assumption that such ‘nationals’ would be ineligible for Chinese citizenship that was reserved for those born in Hong Kong of Chinese parents (a *jus sanguinis* view of citizenship status). The relevant legislation is set out below:

- British Nationality Act (1981) defined 3 categories of citizens:
  - a. British citizens who had right of abode in the UK.
  - b. British Dependent Territory Citizens who had right of abode in the Dependent Territory (BDTC)
  - c. British National Overseas who had no right of abode (BNO)
- Hong Kong Act (1985) and the Hong Kong (British Nationality) Order 1986:
  - a. All BDTC’s need to apply for BN(O) before 30 June 1997.
  - b. Chinese BDTC’s would become Chinese nationals.
  - c. Non-Chinese BDTCs were more problematic.- possibility of being declared stateless

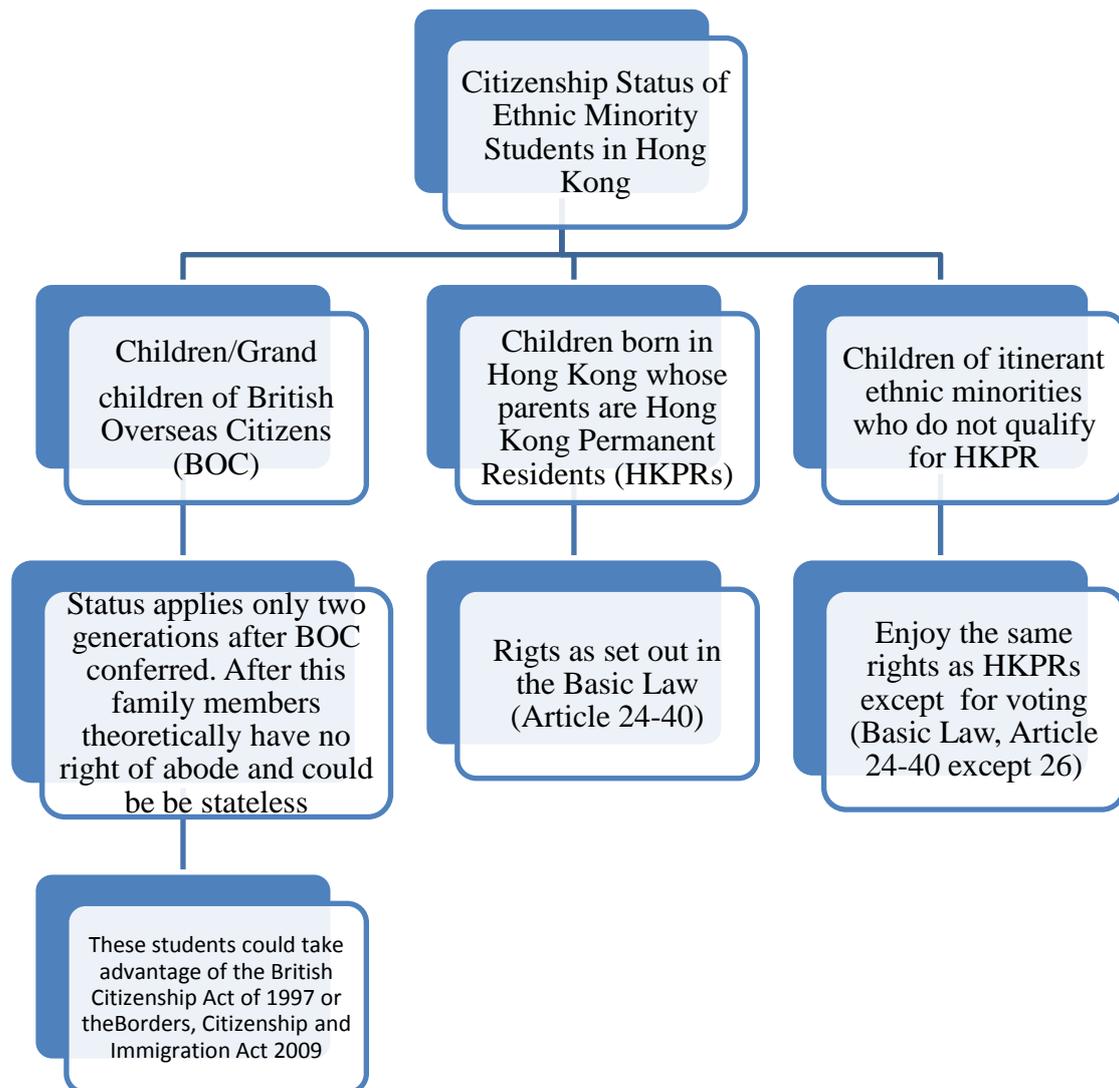
(Drawn from Ku & Siu, 2008, p.164)

- For possible stateless people – “they would be declared British Citizen Overseas (BCO) but no right of abode and the status could only be transmitted for two generations” (Ku & Siu, 2008, p165)
- British Nationality (Hong Kong) Act 1997 enables ethnic minorities to apply for British citizenship after 1 July 1997. But they must not have been citizens of another state prior to 1997.

- Borders, Citizenship and Immigration Act 2009 allowed for British nationals overseas who did not have any other citizenship to apply for British citizenship as long as they did not have any other citizenship.
- By amendment to the *Immigration Ordinance* in 1987 Hong Kong Permanent Resident status was created. Covers a range of non-Hong Kong born people (e.g. those born in Mainland China) but in particular “persons not of Chinese nationality”. (Ku & Siu, 2008, p.166). Must have lived in Hong Kong for seven years and declare Hong Kong as permanent place residence.

These various pieces of legislation mean that citizenship status for ethnic minority students can take different forms as outlined in Figure 1:

*Figure 1: Citizenship Status of Ethnic Minority Students*



## **The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China**

Sets out basic political rights of HKPRs and Chinese citizens but does not reference social rights (e.g. education, housing, employment).

### Article 24

Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents. The permanent residents of the Hong Kong Special Administrative Region shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode. The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.

### Article 25

All Hong Kong residents shall be equal before the law.

### Article 26

Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law.

### Article 27

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.

### Article 28

The freedom of the person of Hong Kong residents shall be inviolable. No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited.

### Article 29

The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary

or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited.

#### Article 30

The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences.

#### Article 31

Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization.

#### Article 32

Hong Kong residents shall have freedom of conscience.  
Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public.

#### Article 33

Hong Kong residents shall have freedom of choice of occupation.

#### Article 34

Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities.

#### Article 35

Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.  
Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

#### Article 36

Hong Kong residents shall have the right to social welfare in accordance with law.

The welfare benefits and retirement security of the labour force shall be protected by law.

Article 37

The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law.

Article 38

Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region.

Article 39

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region. The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Article 40

The lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the Hong Kong Special Administrative Region.

Article 41

Persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed in this Chapter.

*Source: The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China. (Hong Kong SAR, 1997)*

### Does HKPR=Citizenship?

- HKPR is “the nearest equivalent of ‘citizenship’ in the Hong Kong context, and has aptly been described as a ‘core right’, without which other rights and freedoms associated to citizenship can hardly be enjoyed” (Ku & Siu, 2008, p.169)

According to Article 24

- ‘Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;

### Ethnic Minority Students: Research Questions and Issues

*Table 3: Framework for Research on Ethnic Minority Students in Hong Kong*

In School	Out of School
1. Why there is continuing dissatisfaction with the schooling provided for ethnic minority students in Hong Kong? 2. How well prepared are Hong Kong schools and teachers for meeting the needs of ethnic minority students?	1. Can the concept of ‘out of school’ be applied to ethnic minority students in Hong Kong? 2. Do current government policies recognize ‘out of school’ ethnic minority students? 3. What do ‘out of school’ ethnic minority students do in Hong Kong, especially those who would normally be in secondary schooling?
<b>1. How does the discourse of ‘integration’ influence the education policy agenda for ethnic minority students in Hong Kong?</b> 2. How would a policy agenda that focused on multiculturalism produce a different kind of education policy?	1. What rights do ethnic minorities have in Hong Kong? 2. How have ethnic minorities or their representatives pushed for rights relating to education? 3. How has any rights agenda for ethnic minority students been received in Hong Kong?

Source: (Bhowmik & Kennedy, 2012)

**'The discourse of integration'** – prevalent in relation to the education of ethnic minority students.

- Centres largely on language and the priority given to **Chinese language proficiency**
- “We will *step up* the support services for ethnic minorities and new arrivals from the Mainland to facilitate their integration into the community, and to foster mutual understanding and respect within the community” (Tsang, 2011, para. 10).
- The government has talked of ‘smooth integration’ to preserve balance and harmony in the community (Equal Opportunity Commission, 2005).
- ‘One curriculum for all’
  - This has led to a view on the part of education authorities that there should be a single Chinese curriculum for all students. The only concession to diversity has been the production of a Supplementary Guide to the Chinese Language Curriculum for NCS Students.
- For ethnic minorities Chinese is a 2<sup>nd</sup> or even a 3<sup>rd</sup> language but:
  - There has been no recognition of the needs of second language learners either in curriculum or in pedagogy
  - This situation is exacerbated because of the complexities of Chinese as an ideographic language so that students have to learn a new script , a new morphology and a new phonetics

### **System efforts**

- A School Support Program (SSP) was funded providing remedial after-school courses to help NCS students to prepare for the General Certificate of Secondary Education (GCSE) (Chinese) Examination, an alternative Chinese Language qualification since 2007 for ethnic-minority students who want to attend universities in Hong Kong. Yet, “The attendance rate is low because it’s an after-school course, thus students do not want to stay for it,” only 20 to 30 out of some 300 students attended the program. “Most SSP classmates like the Chinese language but since it’s too difficult, their passions are fading and fading,” said Kaur , one of the students. “Also the SSP is overlapped with what we learned before, so it’s not that useful.” (Mulin & Qin, 2010).

## **Criticism from NGOs**

- “What the teacher and students need is a systematic Chinese curriculum that runs through the whole study period, i.e., from kindergarten to Secondary Six. In accordance with different levels of students, learning objectives (i.e. the Chinese level that could be attained) should be set up in each learning stage (such as P.1, P.6, and F.3), and correspondent assessment tools should be formulated.”  
*Source: Hong Kong Unison Submission for the Universal Periodic Review of the People’s Republic of China. (Hong Kong Unison Limited, 2009).*

## **The effects are felt in the community**

- "The main problems facing South Asians were learning to read and write Chinese for students, and finding employment for adults. **Many South Asian students found learning written Chinese too hard for them and were forced to give it up soon when they did not receive adequate help.** Limited knowledge of spoken and written Chinese would turn out to be a major factor against them in job seeking and tertiary education, for the Chinese language was now a standard entrance requirement of both employment and further study." (Centre for Civil Society and Governance, & Policy 21 Limited, 2012, p. i).

## **Language creates barriers, not integration**

- “The language barrier not only hindered social integration, but it has created a few misunderstandings. For example, English speaking South Asians found Chinese unwilling to speak to them. They concluded that Chinese were unfriendly on the assumption that most Chinese were able to communicate in English, which was not entirely correct. By the same token, most Chinese inaccurately presumed that South Asians did not understand Cantonese, and refrained to speak with them." (Centre for Civil Society and Governance, & Policy 21 Limited, 2012, p. ii).

### **Three key issues**

1. Policy
2. Practice
3. Cultural diversity

- These are not mutually exclusive issues and they interact in different ways but sometimes they do not interact – and herein lies the problem.

### **Policy, practice & cultural diversity**

- A policy perspective that highlights integration is well resourced – but it is political policy making rather than social or even economic - the goal is social harmony, not equity or human capital development.
- Practice (curriculum development & pedagogy) remains unchanged in response to diverse student populations.
- Cultural diversity, as a social phenomena, therefore, remains unrecognized on the Hong Kong school system.

### **Finally.....**

- If ethnic minority students were Chinese citizens would their treatment be different? (At best they may be Hong Kong Permanent Residents, at worst, stateless or somewhere in between, non permanent residents). Does their citizenship status make a difference to educational provision? Are ethnic minority students in Hong Kong “partial citizens” (Bauböck, 2011) enjoying only “partial equalities” (Bloemraad, Korteweg & Yurdakul, 2008, p.157)?
- These are questions to be further explored in this project. The relationship between educational provision and citizenship status remains unquestioned in Hong Kong. Yet the fact that there are different ‘citizenships for different people and that one is dominant suggests that both policy and practice in education could be affected.

## References

- Bauböck, R. (2011). Temporary migrants, partial citizenship and hypermigration. *Critical Review of International Social and Political Philosophy*, 14 (5), 665-693.
- Bhowmik, M. K., & Kennedy, K. J. (2012, February). *'No Child Left Behind': Does It Apply to Ethnic Minority Students in Hong Kong?* Paper Presented at the Comparative Education Society of Hong Kong Annual conference 2012. The University of Hong Kong, Hong Kong.
- Bloemraad, I., Korteweg, A., & Yurdakul, G. (2008). Citizenship and Immigration: Multiculturalism, Assimilation, and Challenges to the Nation-State. *Annual Review of Sociology*, 34, 153–179.
- Census and Statistics Department. (2007). *2006 Population By-census, Thematic Report: Ethnic Minorities*. The Government of the Hong Kong Special Administrative Region. Retrieved from [http://www.censtatd.gov.hk/freedownload.jsp?file=publication/stat\\_report/population/B11200502006XXXXB0100.pdf&title=Hong+Kong+2006+Population+By-census+Thematic+Report+%3a+Ethnic+Minorities&issue=-&lang=1&c=1](http://www.censtatd.gov.hk/freedownload.jsp?file=publication/stat_report/population/B11200502006XXXXB0100.pdf&title=Hong+Kong+2006+Population+By-census+Thematic+Report+%3a+Ethnic+Minorities&issue=-&lang=1&c=1)
- Centre for Civil Society and Governance., & Policy 21 Limited. (2012). *Study on Racial Encounters and Discrimination Experienced by South Asians*. Hong Kong: Equal Opportunities Commission. Retrieved from [http://www.eoc.org.hk/EOC/Upload/UserFiles/File/ResearchReport/201203/Race\\_eFull%20Report.pdf](http://www.eoc.org.hk/EOC/Upload/UserFiles/File/ResearchReport/201203/Race_eFull%20Report.pdf)
- Equal Opportunity Commission. (2005). *Legislative Council Panel on Education: Education for Children of Ethnic Minorities*. LC Paper No. CB(2)774/05-06(01). Retrieved from <http://www.legco.gov.hk/yr05-06/english/panels/ed/papers/ed0109cb2-774-1e.pdf>
- Hong Kong SAR. (1997). *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*. Retrieved from [http://www.basiclaw.gov.hk/text/en/basiclawtext/chapter\\_3.html](http://www.basiclaw.gov.hk/text/en/basiclawtext/chapter_3.html)
- Hong Kong SAR Government. (2008). *Administration's Response to the outstanding*

*general issues on education raised by members of the Bills Committee.* LC Paper No. CB(2)2308/07-08(01). Retrieved from <http://www.legco.gov.hk/yr06-07/english/bc/bc52/papers/bc520614cb2-2308-1-e.pdf>

Hong Kong Unison Limited, (2009). *Hong Kong Unison Submission for the Universal Periodic Review of the People's Republic of China*, Hong Kong Special Administrative Region.

Ku, A. S. M., & Siu, H. F. (2008). *Hong kong mobile :Making a global population.* Hong Kong: Hong Kong University Press. Retrieved from <http://www.lib.ied.edu.hk/cgi-bin/ebrary?10358908>

Mrs. Shek, Education Officer, Education Commission, EDB. Data received on 24 September 2010 around 14:30 pm (Phone)

Mulin, A. & Qin, Z. (2 January 2010). Ethnic-minority students trapped in language dilemma. *Hong Kong Dispatches*. Retrieved from <http://majj.journalism.hkbu.edu.hk/archives/657>

Tsang, D. (2011). The 2011-12 Policy address: From strength to strength. *New arrivals and ethnic minorities*. Retrieved from <http://www.policyaddress.gov.hk/11-12/eng/p100.html>

White, R. M. (1987). Hong Kong: Nationality, Immigration and the Agreement with China. *International and Comparative Law Quarterly*, 36 (3), 483-503.