Equality Law and Inclusion in Education

A Research Project Supported by the Henry Chan Inclusive Education Fund

Final Project Report

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1. This report summarizes the activities and research output for the project “Equality Law and Inclusive Education for Students with Disabilities” funded by the Henry Chan Inclusive Education Fund. It also contains discussion of the key recommendations which stem from the research findings. In particular, the report recommends that the Hong Kong SAR Government undertake a review of the Hong Kong Disability Discrimination Ordinance (DDO) to ensure compliance with the UN Convention on the Rights of Persons with Disabilities (CRPD) as it applies to Hong Kong and to fully implement Article 24 which provides for a right to inclusive education.

Summary of activities and output

Student involvement

2. In order to ensure student involvement and therefore enhance the project’s educational value, Kelley Loper recruited nine law students – chosen from a total of sixteen applicants - during the first phase of the project. Members of the student team were tasked with conducting research on particular issues and jurisdictions and then sharing their research findings as part of a series of monthly seminars. This allowed the students to learn about equality law generally and disability discrimination law in particular. They also discussed the concept of inclusive education in theory and how it has been implemented in practice as well as the content of the CRPD and other relevant standards in international human rights law. Experts from the Faculty of Education shared their experience and research in this field which broadened the students’ understanding of the subject through the lens of another discipline.

Conference and community engagement

3. Kelley Loper collaborated with the Faculty of Law, Faculty of Education, the Centre for Comparative and Public Law (CCPL) and the Centre for the Advancement of Special Education (CASE) at the University of Hong Kong, and the Matsunaga Institute for Peace at the University of Hawaii at Manoa to organize an international, multidisciplinary conference on “Inclusion in Education: The Implementation of Article 24 of the UN Convention on the Rights of Persons with Disabilities” held on 28 November 2009 at The University of Hong Kong. The Conference also contributed to the development of an Emerging Strategic Research Theme on Diversity Studies at the University of Hong Kong.
4. The conference was well-attended by parents, students, educators, policy-makers, academics, representatives from the Equal Opportunities Commission and non-government organizations, among others. It provided an excellent opportunity to 1) raise the profile of issues surrounding inclusive education in the Hong Kong context; 2) consider comparative experience and law from other jurisdictions and their possible relevance to Hong Kong; 3) benefit from the input of international experts and their interaction with local participants; and 4) involve a range of interested parties in a discussion of the content of a right to education and how to achieve equality and inclusion going forward.

5. The keynote speaker was Vernor Muñoz, the UN Special Rapporteur on the Right to Education. Other visiting speakers included Thierry Del Prado from the UN Office of the High Commissioner for Human Rights, A. Wayne MacKay from Dalhousie University in Canada, and Carole Petersen from the University of Hawaii. A number of Hong Kong-based speakers discussed legal, policy, educational and social challenges which impact on the development of inclusion in education in the local context with reference to comparative experience.

6. Kelley Loper also arranged for the keynote speaker, Vernor Muñoz, to meet with several non-governmental organizations prior to the conference to hear their concerns related to education and children in Hong Kong. During these discussions, Mr. Muñoz suggested ways in which these groups can raise issues in international forums and agreed to follow-up with their concerns in his capacity as Special Rapporteur.

7. The conference programme and presentations, including the Special Rapporteur’s keynote address, are available at: http://www.hku.hk/ccpl/Inclusion_in_Education.htm. A DVD of the full conference is available upon request.

Research Output

8. In addition to the conference, the project has produced the following research output:

- A special focus section on Inclusion in Education for Persons with Disabilities published in Hong Kong Law Journal (vol 40, 2010, pp 417-512). The three articles contained in this section of the journal are based on papers presented at the Inclusion in Education Conference in November 2009. They provide an analysis of Hong Kong disability discrimination law, the CRPD and comparative perspectives from Australia, the United States and Canada. The articles include:


- Kelley Loper presented two conference papers based on the research conducted for this project:


**Research Findings and Recommendations for Legal Reform**

9. The report: “Equality Law and Inclusion in Education: Recommendations for Legal Reform” recommends legal reform in Hong Kong based on the findings of the study. It reproduces and adapts substantial portions of the article: Kelley Loper, “Equality and Inclusion in Education for Persons with Disabilities: Article 24 of the Convention on the Rights of Persons with Disabilities and its Implementation in Hong Kong” (2010) 40 HKLJ 419-447 (with permission from the publisher). The report is available on the website of the Centre for Comparative and Public Law and is intended to contribute to discussions about the development of inclusive education and discrimination law in Hong Kong as well as the implementation of the CRPD, especially in the run-up to discussion of Hong Kong’s report to the Committee on the Rights of Persons with Disabilities.

10. Article 35 of the CRPD requires that state parties submit reports to the Committee on the Rights of Persons with Disabilities, which monitors states’ implementation of the Convention, within 2 years of ratification or accession. The Convention has applied to China – including Hong Kong – since 31 August 2008 and the Chinese Government submitted its first report, including Hong Kong’s report, in August 2010. The report is available at the Office of the High Commissioner for Human Rights website: [http://www2.ohchr.org/SPdocs/CRPD/futuresession/CRPD.C.CHN.1.Add.1_en.doc](http://www2.ohchr.org/SPdocs/CRPD/futuresession/CRPD.C.CHN.1.Add.1_en.doc). The Committee will consider this report and discuss the Convention’s implementation with Chinese and Hong Kong Government delegations at one of its future sessions in Geneva.