

**IS ANTI-DISCRIMINATION STILL DISCRIMINATION?
CRITICAL DISCOURSE ANALYSIS OF THE HONG KONG RACE
DISCRIMINATION ORDINANCE**

Elizabeth Hubbs

University of Arizona

This paper applies critical discourse analysis (CDA) as a theoretical methodology to explore recent legislation related to race and language in Hong Kong. Fairclough's (2010) general three-step methodology is utilized to examine social ideologies, understand power dynamics, and uncover injustices within the Race Discrimination Ordinance (RDO). The RDO, passed by the Hong Kong Legislative Council in 2008 (Hong Kong Equal Opportunities Commission [HKEOC], 2013; Hong Kong Legislative Council [KHLC], 2008), aimed to legally eliminate racial discrimination in the city for the first time (HKEOC, 2013; HKLC, 2008). After the passage of the RDO, the media criticized the legislation as being a weak response towards pressure to take action against racism in the city (cf. Ngo, 2014). CDA provides a useful tool to explore the text of the RDO and ask whether this legislation truly prohibits racism and discrimination. Definitions and themes in this document are analyzed. In particular, the RDO's definition of discrimination is critiqued, and the document's underlying perceptions towards immigrants are highlighted to reveal the purposeful exclusion of minority groups and languages in Hong Kong. Overall, this research demonstrates intersections between immigration, ethnicity, language, and discriminatory ideologies. Furthermore, a critical analysis of this policy provides a starting point to promoting and initiating social change towards the acceptance of immigrants and their ethnic and linguistic diversity.

Keywords: *critical discourse analysis, racial discrimination, language policy, Hong Kong*

INTRODUCTION: HONG KONG LANGUAGE POLICIES

In 1842, Hong Kong became a British colony following the end of the First Opium War. Upon the close of the war, the British and Chinese signed the Treaty of Nanjing, leasing the Hong Kong territories to the United Kingdom for 147 years. As a result, the British left a legacy of democracy, neoliberalism, and English education (Bacon-Shone & Bolton, 2008; Bolton, 2003; Flowerdew & Scollon, 1997; Lin, 2005; Tsui, 2008; Tsui & Bunton, 2000). On the first day of July 1997, Hong Kong ceased to belong to the British. The lease ended and the territories were returned to the People's Republic of China (PRC), allowing for multiple political transformations to take place. Hong Kong entered into the sociopolitical experiment of being 'one country under two systems,' left to make its own autonomous decisions while remaining under the PRC government.¹ Under the 'two systems' agreement, Hong Kong was to determine its own educational system and the corresponding languages of instruction, as well as continue to

create their own laws until complete integration with the PRC in 2047 (Lin, 2005; Zhang & Yang, 2004). The language policies adopted by the new Hong Kong Special Administrative Region (HKSAR) government, however, have been continuously problematic. In particular, issues regarding race, language, and education have been prevalent in the city since the handover (cf. Gao 2012a, 2012b; Hue & Kennedy, 2012; Kennedy, 2012; Lin, 2005).

After examining various recommendations prior to their return to China, the Hong Kong Civil Service Bureau announced that new language policies would take effect in 1997. These policies, directed to the education sector, were referred to as, “兩文三語” (biliterate trilingualism). Outlining the goals for public education, this policy stated that students needed to be biliterate in Chinese and English, as well as trilingual in Pǔtōnghuà (PTH), English, and Cantonese (cf. Bolton, 2003; Chao, 2002, Education Bureau of Hong Kong [EBHK], 2013; Li, 2009; So, 2000; Zhang & Yang, 2004). From the onset, this policy regarded written Cantonese as a stigmatized language, implying that Chinese literacy meant reading through Modern Standard Chinese (MSC), a written language that is derived from Mandarin. As 90% of the population speaks Cantonese as their first language (Lewis, Simons, & Fennig, 2014), the notion of biliteracy became problematic because it wrongly assumes that students are only learning to read in two languages (cf. Chen, 1999). Furthermore, the government decided to also promote “mother tongue” education by switching the medium of instruction in secondary schools from English (under the British) to Chineseⁱⁱ (Chao, 2002; R. Johnson, 1997; Lai, 2010). The implementation of these new policies, however, resulted in protests from parents, teachers, and students. HongKongers were upset with the removal of English medium of instruction because the language came to be regarded as a valuable tool for maintaining a competitive edge in the global society as well as a symbol of Hong Kong identity (cf. Bourdieu, 1986; Chan, 2014; Fairclough, 2006; Flowerdew, 1997, 2012; Gu, 2011; Harvey, 2007; Heller, 2010, 2011; Hu & McKay, 2012; Lai, 2011; Ong, 1999; Poon, 2013). Also, the continual promotion of PTH further caused the citizens concern that policy decisions were simply an attempt to promote nationalism towards Mainland China (cf. Chan, 2014; Leibold & Chen, 2014; Poon, 2013).

After receiving harsh critiques, the Education Bureau of Hong Kong (EBHK) began to develop the *Weitiao*ⁱⁱⁱ, or fine-tuning, policy in September 2010 to address the problems of bifurcation and the problems with the biliterate trilingualism policy (EBHK, 2010; E. Ho, 2010; Poon, Lau, & Chu, 2013). The main goal of the fine-tuning policy is to increase the flexibility and decision-making of schools. Schools are given the opportunity to decide upon the medium of instruction for their students, thus diversifying the arrangements of secondary education in the territories (Poon et al., 2013). At the same time, educational reforms have been implemented for the non-Chinese speaking students and newly arrived immigrant children. (These policies specifically focus on “minority” students). The EBHK provides school placement services to help minority students better integrate (assimilate) into the community through the provision of Chinese learning centers that prepare students before they enter the formal education system (EBHK, 2013). There are also designated elementary schools that serve areas with a large ethnic minority population. Chinese language assessments are also being developed for immigrant and linguistic minority students to help evaluate their readiness to enter into public schools (EDHK, 2013). These reforms demonstrate the continual importance of Cantonese as the “mother tongue” in Hong Kong and the written standard of MSC.

There is a plethora of research on the transition from English to Chinese based instruction and the political implications after the transfer of powers in 1997 (Bolton, 2003; Chan, 2014; Chao, 2002; Gu, 2014; Lai & Byram, 2003; Poon, 2013; So, 2000; Tsui, 2008; Zhang & Yang,

2004). Therefore, this paper turns to examine the policy developments that have resulted from increasing attention from the media, government, and non-governmental organizations (NGOs) to non-Chinese speaking, or ethnic minority, students in the HKSAR (Hue & Kennedy, 2012). Both the Hong Kong Legislative Council and the EBHK have implemented multiple educational policies and passed several legislative documents since 2008. Furthermore, NGOs in Hong Kong have increasingly focused on the rights of minority students in the city since the late 2000's (Benitez, 2011; Carney, 2012, 2013; Choi & Ngo, 2013; Ngo, 2013). Resulting from the focus on ethnic minority students, the government has gradually started to develop policy reforms. For example, in January 2014, the chief executive's annual policy address mentioned the need for changes in the treatment towards ethnic minorities (Chong, Cheung, Tam, Lo, Zhao, Lai, & Poon, 2014). In order to understand these new policy developments, the following presents a brief background of Hong Kong's ethnic minority groups and their current struggles in education. In particular, the landmark legislation, the Race Discrimination Ordinance (RDO), is analyzed through critical discourse analysis (CDA). This legislative document is argued to provide the backdrop to the further development of educational policies for ethnic minority students.

HONG KONG MINORITIES

As a result of globalization and political transformations after the handover, Hong Kong has experienced constant fluxes in its ethnoscaapes and demographics (cf. Appadurai, 1990). Hong Kong's population grew tremendously from 1997 to 2011, as people from Mainland China immigrated to the territory after reunification. Also, there has been an increase in immigration from other populations (Bhowmik & Kennedy, 2012; Gao, 2012b; Gu, 2011; Hue, 2008; Hue & Kennedy, 2011, 2012; Kennedy, 2012; Law & Lee, 2012, 2013; Newendorp, 2011). Due to the changes in demographics, the population has increased from 6 to 7 million people since 1997. Within this population, 500,000 people are classified as ethnic minorities (Census and Statistics Department of Hong Kong [CSDHK], 2011; Fang, 2011; Kennedy, 2012). Although the minority population is relatively small, the number of immigrants continues to grow annually, shifting the population demographics (cf. Fang, 2011).

At present, the immigrant population includes people from Mainland China (including a wide range of Mandarin speakers and indigenous people that speak Sze-Yap, Chiuchow, and Hakka), Filipinos, Indonesians, Japanese, Koreans, Thai, Indian, Bangladeshi, Sri-Lankan Vietnamese, Pakistanis, Nepalese, Afghanistanis, Bhutanese, British, Americans, and Maldive Islanders (CSDHK, 2011; Fang, 2011; Kennedy, 2012). The most populous immigrant groups in Hong Kong are from India, Indonesia, and the Philippines (CSDHK, 2011). Clearly, the immigrants in Hong Kong consist of people from multiple cultural and linguistic backgrounds, creating an exceptionally diverse population. In the RDO, the term ethnic minority only refers to non-Chinese minorities. For the purposes of this study, and looking at the RDO, only non-Chinese minorities are considered as pertaining to 'ethnic minority' peoples, although discrimination and problems in education also affect Mainland Chinese immigrants.^{iv}

Although the education system in Hong Kong under the Weitiaio policy can have both Chinese and English as the mediums of instruction in secondary schools, the most common language in primary schools is Cantonese. Ethnic minority students that do not speak Cantonese at home, experience constant discrimination at school (cf. Gao 2012a, 2012b; Hue & Kennedy, 2012; Kennedy, 2012). This discrimination is contradictory to statements made by the Hong Kong Education Commission in 1999 that confirmed that the guiding principle for the public education system was to create opportunities for the future development of the city by providing

every citizen with the chance to learn without facing discrimination (Kennedy, 2012). The city, however, did not uphold this guiding principle. It was not until a large influx of ethnic minorities and immigrant communities in the city in the 2000s that the government was prompted to pay attention to the need to reform education for this diverse student population (Fang, 2011; Tsung, 2009). The next legislative reform came in 2007 when the Hong Kong government issued a policy called the “Firm Guidance,” proposing a compulsory CMI (Chinese Medium of Instruction) policy for public schools (Fang, 2011; Yeung, 2014). The Firm Guidance has had further negative effects on many minority groups in Hong Kong, and the lack of support for students from these groups has resulted in increased unemployment rates for this population (CSDHK, 2012). Currently, 40% of ethnic minorities in the city have been unemployed for longer than 8 months, and when they do obtain a job, it is usually part time work and low paying jobs due to language barriers (Fang, 2011). Often, the jobs ethnic minorities hold are the lowest paying ones. As a result of the economic and educational problems that came with the Firm Guidance, along with pressures to tackle racism and prevent discrimination, the government finally responded in 2008 with the Hong Kong Race Discrimination Ordinance, a policy document that for the first time officially prohibited racial discrimination in the city (Fang, 2011; Hong Kong Equal Opportunities Commission [HKEOC]; Hong Kong Legislative Council [HKLC], 2008; Hue & Kennedy, 2011).

While the RDO was created to legally eliminate racial discrimination in Hong Kong, problems remain, and despite this proclamation, discrimination in the city appears to have increased (Fang, 2011; Yeung, 2014). This paper attempts to understand how race is related to language in governmental policies in Hong Kong by specifically examining the RDO and asking if this ordinance, designed to prohibit racism, build cultural harmony, and promote multiculturalism, actually further promotes ethnic discrimination and exacerbates linguistic differences. Two general questions guide this analysis:

1. How do the definitions of discrimination and race provide a deeper understanding of the ideologies towards minorities within the RDO?
2. In what ways does the RDO serve as a language policy?

THEORETICAL BACKGROUND AND METHODOLOGY

In order to answer these questions about the RDO, critical discourse analysis (CDA) is used as a theoretical methodology. Having developed from multiple fields of study, CDA aims to provide insight into how spoken and written texts produce and reflect social change, socio-political inequalities, power dynamics, and ideologies (Bloomaert, 2005; Fairclough, 2010; Gavriely-Nuri, 2012; Gee, 2011; van Dijk 2003; van Leeuwen, 2005; Waugh, Catalano, Al Masaeed, Do, & Renigar, in press; Wodak & Meyer, 2009). CDA builds upon an ecological perspective that considers discourse to be socially and culturally organized systems of language in use (Fairclough, 2010; Hult, 2010; Schiffrin, 1994). Gee (2011) argues that CDA is a valid research approach that, like physical or chemical sciences, provides descriptive research that examines what language is doing in the world. At a theoretical level, CDA is the integration of linguistic analyses and social theories about power and ideologies (cf. Bloomaert, 2005; Bourdieu, 1991; Cameron & Panović, 2014; Fairclough, 2001, 2010; Flowerdrew, 2012; Gee, 2011; Gilmore & Smith, 2002; Hult, 2010; D. Johnson, 2011; Machin & Mayr, 2012; Maingueneau & O’regan, 2006; Mills, 2004; Tollefson, 2006; van Dijk, 2003; Wodak & Meyer, 2009). Language holds the potential to create and produce power. Bourdieu (1991) discusses in an analysis of symbolic power, that power is everywhere, and is often invisible. As a symbolic system of meaning, language designates various social functions and reveals struggles and

relationships (Bourdieu, 1991; Fairclough, 2001, 2010; Hult, 2010; D. Johnson, 2011; Machin & Mayr, 2012). Power and ideologies do not derive from language, but language is a source of production and reproduction of power and ideologies (Cao, 2014; Wodak, 2012; Wodak & Meyer, 2009).

Based on the intersection of power and ideologies in language, CDA claims that discourse should never be analyzed in isolation, as all speech and writing is socially constructed and dialogic (Fairclough, 2010; Mills, 1997). As a result, all texts are relational, because they have the potential to be sites of struggle, contestation, and power (Mills, 1997). CDA aims to analyze texts (and other semiotic sites) through a problem-oriented approach that examines the various relationships between the presented semiotic data and its corresponding social structures, institutions, and ideologies (Fairclough, 2010; Mills, 1997; van Dijk, 2003; Wodak, 1996). Textual data is built upon social relationships and CDA can reveal social problems, manifest ideologies, reflect various power dynamics, legitimize or delimit people and groups, assess problems with bureaucracy, and uncover injustices (Bloomaert, 2005; Fairclough, 2010; Paltridge, 2012; Paulston & Heidemann, 2006; Wodak, 1994; Wodak & Meyer, 2009).

There are a diverse amount of methodological approaches within the CDA paradigm (Bloomaert, 2005; Cao, 2014; Waugh et al., 2015; Wodak & Meyer, 2009). While the lack of one distinct way to do CDA is often critiqued, this diversity is also a strength that allows researchers to focus on multiple dimensions of language and society and include analyses of various texts (Bloomaert, 2005; Cao, 2014; Machin & Mayr, 2012; Waugh et al., 2015; Wodak & Meyer, 2009). The most well known scholar often considered to have pioneered CDA, Norman Fairclough, defined a basic methodology that includes three basic steps: description, interpretation, and explanation (Bloomaert, 2005; Fairclough, 2001, 2010; Waugh et al., 2015; Wodak & Meyer, 2009). Description, the first step, simply describes semiotic texts (Fairclough, 2001, 2010). Description involves looking at vocabulary, textual structures, grammar, and other semiotic resources (Bloomaert, 2005; Fairclough, 2001, 2010; Machin & Mayr, 2012). Description can involve the examination of the finer details of symbolism and the meaning of language and image choice (Machin & Mayr, 2012). For example, Fairclough (2001) argues that even the description of grammatical subordination has the potential to expose social inequalities. The second stage, interpretation, involves finding the connections within the text in order to build a situational context. Often, the interpretation stage includes an understanding of the genre of communication (Fairclough, 2001; Machin & Mayr, 2012). Finally, explanation incorporates both the linguistic features, as well as the contextual background and begins to connect language to society and explain power struggles, issues of domination, and ideologies (Fairclough, 2001, 2010). The three stage process assumes that the CDA program is dialectical, relational, and transdisciplinary^v as it looks at how the arising discourses have relationships with other objects and create dialogues between disciplines and theories (Bloomaert, 2005; Cao, 2014; Fairclough, 2001, 2010). Fairclough's three step basic methodology is adapted in the following analysis of the RDO, as the text is examined through a description of definitions and grammatical choice, an interpretation of genre and relationships, and explanations of how linguistic features relate to the social context of language policies and discrimination towards ethnic minorities in Hong Kong. It is important to keep in mind that these three steps are not a method, but a methodology, implying that a researcher can maintain a repertoire of various methods and theories in order to describe, interpret, and explain discourse and society (cf. Bloomaert, 2005; Cao, 2014; Waugh et al., 2015; Wodak & Meyer, 2009).

This paper utilizes CDA to analyze a policy text. A policy document, such as the RDO, is filled with “cargo” (Gavriely-Nuri, 2012, p. 77), implying that it has various meanings that must be unpacked and examined in order to understand the significance beyond the text. Ultimately, a text is a site of polyphonic meaning, as different layers are taken apart in order to see how the human mind is potentially tricked, deceived, or manipulated by and through language (Chilton, 2005; Fairclough, 2010; van Leeuwen, 2005; Wodak & Meyer, 2009). Therefore, a critical analysis of a policy (or other texts) reveals how language is used as a form of control, or as a replication of hegemonic beliefs (Bloomaert, 2005; Fairclough, 2010). CDA is helpful in this analysis to look beyond the words on the page and search for deeper meanings to see how a text is dependent upon its social and cultural contexts (Gavriely-Nuri, 2012). Also, critical discourse analysis aligns with the idea that policies are not apolitical, but that they create, sustain, and promote the dominant social group’s interests (Tollefson, 2006).

DATA ANALYSIS

Race Discrimination Ordinance

The Race Discrimination Ordinance^{vi}, passed in July 2008^{vii}, is a lengthy legislative document of 119 pages (Hong Kong Equal Opportunities Commission [HKEOC], 2009; HKLC, 2008). The document contains nine parts and their various subsections. The entirety of the document covers the purpose of the bill, table of contents, a section on enforcement, and a section of definitions to assist in interpretation. Rather than look through the whole document, selected sections will be focused on. The chosen sections have the most relevance to language policy, as they pertain to discrimination in general and outline racism within education. While the entirety of the legislation is valid for understanding discrimination as a whole, the following sections are utilized to provide further understanding to the complex relationship between legislation and educational language policies. This analysis includes Parts 1 and 2, Part 4§26^{viii}, and Part 6§58. Parts 1 and 2 define the purpose of this legislation and how the law defines harassment, discrimination, and race. Part 4§26 discusses discrimination in education, and Part 6§58 looks at the language exception clause (HKLC, 2008). Outside documents, such as letters and news events, are also included in order to provide critical evidence of the RDO’s effects in society. All together, the analysis of these sections and supporting documents provides description, interpretation, and a critical explanation (Fairclough, 2010; Gee, 2011; Mills, 1997). Particular focus is given to how the definition of words builds social significance, or reflects power (cf. Gee, 2011). As definitions in the RDO have been crafted and specified by the Hong Kong Legislative Council, these terms (“cargo”) are unpacked to examine how power is constructed. In order to look at the power and ideologies within this text, the following analysis is divided into three sections: an argument about the definition of race, discussion on discrimination, and an outline on the exclusion of language.

ANALYSIS

1. Definitions of Race

As a precursor to the understanding of discrimination, it is first necessary to understand the concept of race within the RDO. In this legislation, race is defined first by the Cantonese words, 種族 (zung2 zuk6). These characters respectively mean ‘type’ and ‘ethnicity.’ This means that race is characterized as different types of ethnic groups. Section 8 of Part 2 further clarifies that the meaning of race includes: “colour, descent or national origin or ethnic origin of the person” (HKLC, 2008, p. 10, Part 2, § 8.1a). It is important to note that the ordinance further states what race is not considered. Race is not based on immigration status or residency status in

Hong Kong (see Part 8 § 3). Therefore, if a person has citizenship or nationality problems, or faces discrimination based on residency issues, it is not related to racial discrimination. Also, the ordinance does not apply to a person if they are not a Hong Kong resident and do not have the right to abide in Hong Kong (HKLC, 2008, p. 11). This clause implies that if a tourist or someone in Hong Kong commits a discriminatory act, the RDO does not cover them. Furthermore, the document provides an intertextual reference by stating that issues regarding exceptions are addressed by the Immigration Ordinance (HKLC, 2008, p.11). In Hong Kong, racial issues are closely linked to immigration issues (cf. Hue & Kennedy, 2012; Waters & Eschbach, 1995), and many of the ethnic minorities in the city are transient, migrant workers (CSDHK, 2011). As a result, immigration status becomes problematic for many ethnic minority groups that consider Hong Kong their home, but do not have residency. By deferring to the Immigration Ordinance, this intertextual reference creates a paradox within the definition of race as presented in the RDO: racial groups refer to “a group of persons defined by reference to race, colour, descent or national or ethnic origin” (HKLC, 2008, p. 11, Part 2, § 8.1d). The definition of race includes national and ethnic origin, implying that immigrants should also be free from experiencing discrimination. Also, many children of immigrant families (even transient families) attend school in Hong Kong and should be given the right to protection from discrimination as well. The reference to the Immigration Ordinance suggests the limitations of this policy, and excludes immigrants from protection against racial discrimination.

An important example of the relationship between race and immigration can be found in Petersen’s (2007) letter to the Hong Kong Legislative Council. As a human rights lawyer and former director for the Hong Kong University’s Centre for Comparative in Public Law, Petersen (2007) sent a letter to the council when they were drafting the RDO. She argued that immigrants should be included within the ordinance, and presented a typical situation she had witnessed regarding racial discrimination towards immigrants: an Indonesian domestic worker files a complaint with the Hong Kong police because her employer took her passport and personal belongings without permission, but the police deny her request (Petersen, 2007). This simple illustration reveals the truth that exempting immigrants from the RDO limits protection from discrimination. In another example in the same letter, Petersen (2007) further explained the problems with the immigration exception clause of the RDO: if someone put a sign on their hotel saying that no American citizens could stay there, it would have to be acceptable, because it is not protected by the clause. This example would be problematic for tourists, and be viewed as unpractical and outrageous (Petersen, 2007). In conclusion, this exemption limits the RDO’s ability to remedy discrimination against some of the vulnerable groups in society. The explicitness of this clause reveals that despite letters and discussions before drafting the bill, legislators added the section towards immigrants, only protecting ‘true’ Hong Kong citizens.

In recent news, the definition of racial discrimination has become problematic in Hong Kong, especially as outlined in the RDO. Reporter for the *South China Morning Post* (a well reputed and well known international, English, newspaper in Hong Kong), Jennifer Ngo (2014) notes that this ordinance only protects people that are not ethnically Chinese. In recent years, there have been various movements and protests between HongKongers and Mainlanders. For example, HongKongers refer to Mainland tourists as “locusts,” an insulting term implying that people from the PRC exploit and use the resources of the Hong Kong people just as insects destroy crops in a field. Furthermore, in February 2014, Hong Kong citizens held anti-locust protests, causing the Equal Opportunities Commission (EOC) to recommend that discrimination legislation should also include harassment towards Mainland Chinese peoples (Ngo, 2014).

Media and newspapers further provoked problems during these protests by publishing political cartoons, where lawmakers are gathered around talking about whether they should add insects (referring to locusts) to also be covered under anti-discrimination laws (Ngo, 2014). Tensions escalated further between the PRC and Hong Kong during the Occupy Central Movement in September and October 2014. Following these recent protests and antagonistic feelings towards Mainland tourists and visitors in Hong Kong, the Equal Opportunities Commission (EOC) suggested that legislation might need to be changed to prevent discrimination against members of the same ethnic group (Ngo, 2014). The *Hong Kong Human Rights Monitor* (HKHRM) (2004, 2006) further states that the RDO was not intended to include discrimination of Mainland Chinese, as they were considered by the government to be of the same ethnic stock as HongKongers (HKHRM, 2006). As a result of sharing the same racial background with HongKongers, the RDO does not protect Mainland Chinese from discrimination. The Legislative Council further states that these problems are considered as social discrimination and do not fall under the category of race (HKLC, 2008; Ngo, 2014). The definition of race in the RDO has become problematic, as no one has been prosecuted under the law since its enactment in 2009 (Ngo, 2014). This reality casts doubt on the effectiveness of the legislation. Clearly, the limiting concept of race in the provisions of the RDO is significant, as it reveals that the document actually continues to promote racial discrimination and exacerbate social differences rather than embrace multiculturalism.

2. What is discrimination?

The introductory paragraph of the RDO outlines the purpose of the document, stating that it renders “discrimination, harassment, and vilification on the ground of race unlawful” (HKLC, 2008, p. 2). As the purpose of the legislation is to prevent discrimination, it is important to unpack how ‘discrimination’ is defined and what ‘cargo’ this term holds (cf. Gavriely-Nuri, 2012; Gee, 2011). According to Part 1, discrimination is defined based on two concepts. First, it is based on the Cantonese word, “歧視” (kei4 si6). The two characters for this word in Cantonese include 歧 ‘kei’ (to branch off) and 視 ‘si’ (to inspect). Discrimination, therefore, is the act of regarding someone as branching off, or being different. Secondly, discrimination is defined as falling within any expressions of Part 1§4, 5, and 6 (HKLC, 2008). This reference is an instance of intra-textuality that suggests one must refer to other sections within the same document to better understand the definition. In the following subsections of the policy, discrimination is further defined as based on grounds of race or the race of a near relative (HKLC, 2008). Discrimination, then, is specific to this text and only refers to being treated differently on the basis of race.

In addition, Sections 4, 5, and 6 outline what would be described as a ‘circumstance’ relevant to discrimination. These discrimination circumstances are instances when “a person (“the discriminator”) discriminates against another person” (HKLC, 2008, p. 6, Part 2, § 4.1). In this section, along with its various subsections, the Chinese and English policy documents both employ an overlexicalization (Machin & Mayr, 2012) of the word ‘discriminate’ and its other morphological forms (discriminators, discriminated, etc.). Overlexicalization, or the use of the same lexically based item for a single entity or construct, can be used for various purposes in a text. This technique can be a form of creating power, and reclamation, as is seen in some policies created by indigenous communities. In the RDO, however, overlexicalization, or more specifically the use of polyptoton (repeating words derived from the same root), is a component of the rhetoric of repetition and legalistic discourse. Discrimination is defined when the “discriminator discriminates against another person” (HKLC, 2008, p. 6, Part 2, § 4.1). By

defining a word through polyptoton, the Legislative Council gives power to the government to ultimately determine how discrimination is defined. The over-usage (cf. van Dijk, 2003) of the word also reflects the power dynamics of this legislation: if someone brings a racial discrimination complaint to the government, the government will make the decision whether or not someone acted as a discriminator. They have the authority to interpret what constitutes discrimination and a discriminator based on the definitions outlined in the RDO. Through the vague definitions in the RDO, the Legislative Council maintains power as the primary interpreters of law.

Discrimination is the basis for the entire ordinance, and yet, the subsections that outline what constitutes discrimination are all defined by employing the word through its own definition. The definition of discrimination in the RDO is technical and supports legalistic epistemologies: only those who are to interpret the law understand the jargon within it, making it difficult for the average citizen in Hong Kong to figure out what is and what is not defined by the ordinance. Fairclough (2010) refers to the idea of genres as language use associated with particular social activities. These various activities can include interviews, scientific papers, and legal documents, and are ultimately semiotic ways of acting and interacting (Fairclough, 2010). Through the obscurity of the definitions provided in legal documents, such as the RDO, average citizens are denied access as non-members of a legal and bureaucratic discourse; they cannot clearly understand and use the law for their benefit as they do not participate in the genre found within the RDO (cf. Blommaert, 2005; Fairclough, 2010; Gee, 2011; Wodak, 1996). The definition of discrimination is thus an instance of legislative authority, binding people by the provisions outlined in the Ordinance.

Breaking apart the cargo in the word discrimination even more, Part 2, § 4 outlines the reasons someone might be labeled a discriminator: “on the ground of the race of that other person, the discriminator treats that other person less favorably than the discriminator treats or would treat other persons” (HKLC, 2008, p. 6 Part 2, § 4.1a). Here, the discriminator is someone that is bound further by definitions as one that treats others less favorably because of their race. A discriminator is defined similarly to other ordinances in Hong Kong. For example, an intertextual reference to the Sex Discrimination Ordinance (HKLC, 2008, p.1) suggests that the terminology between legislative documents is similar; the differences between these two ordinances are found in why and how someone discriminates against another person. (The RDO is centered on race and ethnicity while the Sex Discrimination Ordinance protects people from mistreatment due to sexual harassment and gender identity).

Continuing with the idea of what constitutes discrimination, all subsections in Part 2 refer to the person being discriminated against as “the other person” (HKLC, 2008, p. 6, Part 2, § 4.1). The language use in these subsections is significant (cf. Gee, 2011) as it creates a linguistic sense of ‘othering.’ Throughout the entire policy, the person being discriminated against is referred to as ‘the other person.’ As ‘the other,’ the person being discriminated against based on racial differences is placed in a subordinate role—they are an inferior person, or ‘the other.’ MacQuarrie (2010) defines othering as a social science term that perpetuates prejudice and discrimination through ignorant or subversive means. The othering process is one that exploits, objectifies, or stereotypes a particular group or person. Here, the RDO protects against racial discrimination by referring to people that are racially different as ‘the other person’ (HKLC, 2008, p.6, Part 2, § 4.1). This phrase is repeated over and over throughout the subsequent definition sections: “treats *other* persons less favourably” (p. 6 Part 2, §4.1.a), “the discriminator

applies to that *other* person” (p. 6 part 2, §4.1b), and “which is to the detriment of the *other* person” (p. 7, part 2 § 4.1.b3) [Italics added for emphasis].

The term ‘other person’ is concerning. First, Gee (2011) argues that an understanding of political context is relevant to interpreting discourse. Gee (2011) defines politics as the understanding of how social goods are distributed and how they are withheld. Language can be utilized as a building task (a way) to determine how social goods are distributed (Gee, 2011). The RDO is a politics-building task (Gee, 2011) that uses language to take the stance that social goods should be given equally to all ethnicities in Hong Kong. Unfortunately, referring to people as ‘the other person’ emphasizes their difference. Minorities are now being given the freedom to not be discriminated against and to have the rights to previously withheld rights. (This is the purpose of the RDO). The usage of the term ‘other person’ does not simply distinguish between the discriminator and person being discriminated against. Rather, this language is purposeful and affirms pre-existing ideas of prejudice in Hong Kong. In their research on the rights of ethnic minorities in Hong Kong, Hue & Kennedy (2012) note that the RDO is the first attempt by the Legislative Council to enter into the realms of protecting cultural diversity. The authors suggest that the passage of this law was contentious in every sector in society and was largely a project taken on by legislative team members that had researched cultural diversity in Western contexts (Hue & Kennedy, 2012). The battles to pass this bill suggest that the HKLC may have used terminology that creates intentional othering as a way to satisfy opposition towards the ordinance. The RDO simply serves as symbolic anti-discrimination but does not necessarily intend to promote cultural diversity. Also, as Ang (2007) and McCarthy (2009) argue in work on cultural and linguistic diversity in Asia, governments may simply accommodate the interest of ethnic minorities through policies that promote national harmony but do not seek to truly be anti-discriminatory.

The idea of othering is further expanded in Part 2 § 4.2 (RDO, 2008). This subsection provides an excuse for certain types of discrimination by stating that some conditions for discrimination are justified. Racial discrimination can occur when a discriminator imposes a requirement on another person that they would not impose on the person of the same racial group (HKLC, 2008, p. 6, Part 2 § 4.2b). If this requirement is not justifiable, it is considered to qualify as racial discrimination. The ordinance continues, “a requirement or condition is justifiable [...] if it serves a *legitimate* objective and bears a rational [...] or it is not *reasonably* practicable for the person who *allegedly* discriminates against another person not to apply the requirement” (part 2 § 4.2 b) [Italics added for emphasis]. According to van Dijk (2003), word choice in CDA is important as it explores both the semantic and social meanings of words as they relate to power and social relationships. In the above quote, three words stand out: legitimate, reasonably, and allegedly. These words are adjectives and adverbs that modify the adjectives and verbs that follow them. The term *legitimate* means lawful or logical (Pearsall, 2013). If someone has a logical reason to discriminate, this ordinance will not protect the person experiencing this treatment. Continuing with the quote, the term ‘reasonably’ implies moderation (Pearsall, 2013). Thus, a person is allowed to ‘discriminate’ if they propose a condition that would cause something to be moderately unfeasible. In this subsection, someone accused of discrimination could justify a requirement or condition that allows him to discriminate by showing that it was not reasonably practicable for him not to apply that condition (this is regardless of how irrational this condition may be). Furthermore, allegedly, meaning supposedly, modifies the verb discriminate (Pearsall, 2013). These adverbs and adjectives, as modifiers, semantically and socially ‘soften’ the idea of discrimination. The word choice

provides excuses, making discrimination justifiable; also, the specific words question whether or not something counts as discrimination at all (it can be ‘alleged’). As Hue & Kennedy (2011) note in an analysis of treatment towards ethnic minorities in Hong Kong, the RDO is often critiqued for creating a “weaker” (p. 346) definition of discrimination. This definition allows for exceptions and creates conditions that justify discrimination. Ultimately, the definition of discrimination in the RDO is limited. The text created boundaries by delineating what is considered discrimination and what is not. It also creates and justifies instances where discrimination is justified. Furthermore, the text participates in legal ‘othering.’ This linguistic othering becomes problematic as it continues to create differences between HongKongers and minority peoples.

3. Education and Language

Aside from issues regarding the definitions of race and discrimination within the ordinance, the sections addressing education and language are also of interest. When it was passed in 2008, the RDO was a landmark piece of legislation, as nothing from the government had previously outlawed hostility based on race. This document, however, made it clear that language was not included in the definition of race. The language exception has become increasingly problematic in regards to education and ‘legitimized’ segregation in Hong Kong (Kennedy, 2012). By teasing apart the problem of language in the RDO, we can see how the language exclusion in this policy has helped perpetuate stereotypes and create divisions in Hong Kong.

One problem with the concept of language in the RDO is based on theoretical perspectives. Pedrioli (2011) and May (2001) suggest that language should be respected as part of the ‘cultural stuff’ of ethnicity. Often, civil rights legislation does not address language (such as the Civil Rights Act in the United States). Critical theory, however, views race and ethnicity as dynamic concepts; language is included as part of ethnicity because of its intimate connection with how people view the world (May, 2001; Pedrioli, 2011; Perea, 2004; Wan, Renganathan, & Phillip, 2014). In addition, language is the carrier and vessel of culture, and discrimination based on language is also against ones culture and their ethnic background (Perea, 2004). Within this framework, language should be included as part of ethnicity and national origin in civil rights legislation. Bearing this theory in mind, the following analysis assumes that language is a component of ethnic and cultural identity. As a result, language can be utilized as an extension of racial and ethnic discrimination.

3.1 Segregation. Part 2 Section 4 is the segregation clause of the RDO. The document states: “for the purposes of this Ordinance, segregating a person from other persons on the ground of the race of that person is treating that person less favourably than the other persons are treated” (HKLC, 2008, p. 8, Part 2, §4.6). This clause is important, as it makes an explicit declaration that segregation is not permitted because it treats people less favorably than others. There are a few implications to the segregation clause. First, people cannot be denied access based on ethnicity or national origin. Secondly, people cannot experience segregation on the basis of race. Based on the wording of this clause, however, people in Hong Kong can experience segregation based on citizenship and language. As previously discussed, racial discrimination does not include treatment of immigrants. Also, segregation does not include language. If someone does not speak one of the two official languages (English and Chinese), there is no protection against discrimination, and people may not be given access to materials in their languages (HKEOC, 2009). As a result of the fact that segregation on national origin and

language is acceptable, the Hong Kong Equal Opportunities Commission (HKEOC, 2009) made a public statement that racial harmony would never occur in the city as long as linguistic segregation and discrimination is permitted.

Recently, the segregation clause has been criticized in regards to language education. Minority students that do not speak Cantonese in Hong Kong are currently sent to Chinese language centers and designated elementary schools (Fang, 2011). These language centers, premised on the idea that students need to learn language to help them be successful in school, legally segregate minority students from their Cantonese-speaking peers. NGOs in the city, such as Hong Kong Unison 香港融樂會 (Hong Kong Unison, 2014) and Hong Kong Christian Services 香港基督教服務處 (Hong Kong Christian Services, 2014), have been working fervently to eliminate linguistic segregation. The RDO becomes problematic for the NGOs because it specifically states that the law does not protect against cases of linguistic segregation. The unfortunate paradox is that the segregation occurring in Chinese language centers causes students to be *de facto* segregated based on race—the students are all ethnic minority students. These students face discrimination from teachers that perceive them to have lower intelligence and unable to learn the language (Fang, 2011; Gao, 2012). Despite the fact that these classes are designed to build language skills for these students, they also separate Hong Kong people from ethnic minorities, thus violating the segregation clause in the RDO. The segregation that occurs is clearly based on race, although language is used to justify the segregation. Truly, language is intimately connected to ethnicity (Pedrioli, 2011), and segregation based on language is tied to race.

Also, Part 4 of the RDO is significant as it outlines that discrimination based on race is unlawful in educational establishments. Part 4, §26.1c discusses that an educational establishment should not deliberately refuse people access to the benefits, facilities, and services they provide; students cannot be refused admission based on race (HKLC, 2008, p. 31, Part 4). Minority students, however, are often placed in separate facilities based on language ability. This raises the question whether or not separate facilities to teach language are deliberately omitting people from access to the same services and opportunities? While students are not denied on the basis of race, the text in the RDO does not consider it illegal to segregate based on language. The government specifically states that race should not be used as a basis for separating people in education. Power, however, is given to the students that speak Cantonese as their first language, and thus have access to attend regular public schools. Privileges are denied to linguistic minority students. The education clause does not mention language, and the silence on this issue allows for students to receive unequal treatment and be segregated legally, as no laws are violated. Clause 26 prohibits educational establishments from discriminating based on race, and stipulates that the same curriculum should be offered to all students (HKLC, 2008). A common curriculum is taught, and students are to be treated equally. Educational establishments, therefore, cannot make different arrangements that would single out students based on race, but they can make special provisions for students based on language, as is seen through the establishment of language centers. This separate treatment is justified because language is not included as a component of racial discrimination.

Treating students differently based on linguistic differences can become exclusionary, and the RDO ultimately allows for linguistic segregation in schools. When minorities are placed in Chinese language centers, power remains in the hands of the dominant language speakers. Most ethnic minority students do not speak any of the three government promoted languages as their home language (Gao, 2012a, 2012b). This has caused these students to continuously drop

out of school at high rates. As a result, this population overall has the lowest paying jobs in Hong Kong (Hong Kong Census and Statistics Department, 2012). Furthermore, ethnic minority students experience negative stereotypes resulting from deficit ideologies, as their teachers and peers view them as unable to learn Cantonese (Gao 2012a, 2012b; Hue & Kennedy, 2012; Kennedy, 2012). Research on language ideologies in Hong Kong reveals that teachers, assuming their students cannot learn Cantonese, blame the individual for their lack of success (Gao, 2012a, 2012b; Hue & Kennedy, 2011, 2012; Kennedy, 2012). It becomes problematic when students are blamed for their abilities rather than the structure of the education system and the government's policies (cf. Harvey, 2007). Also, as Bourdieu (1986) indicates, when people are disadvantaged through a lack of cultural and linguistic capital, it affects their attainment of economic capital. Ethnic minority students do not receive support for their own cultural and linguistic resources. Their own languages do not have instrumental value in Hong Kong. As programs do not value linguistic diversity, minority students continue to receive poor treatment in school based on language, as well as separation from their peers. This discrimination and segregation, however, is not protected in the RDO because it is not considered part of race (HKLC, 2008).

3.2 Language Exception Clause. Clause 58 is the most controversial component of the RDO. This clause, known as the exception for languages, states: “(1) Nothing in section 20, 21, 26, 27, 28, 29, 35, or 36 renders unlawful the use of, or the failure to use, any language in any circumstances relevant for the purposes of the section [...] a reference to the use of, or failure to use, a language includes a reference to the provision of, or failure to provide, a translation, interpretation or transcription into the language” (HKLC, 2008, p. 55). These exceptions are onerous as they ignore the centrality of language in everyday life, communication, employment, and education. The sections referred to in this clause include the law's provisions regarding discrimination in employment, the exchange of goods and services, the ability to rent or sublet, and the establishment of education. The language exception states that the RDO does not have to consider language as part of discrimination. With the intra-textual reference to education, this clause further implies that it is not required to provide modifications to the language of instruction in Hong Kong schools. Aside from providing Chinese language courses for minority students, schools do not need to develop further modifications to their instruction. This clause also allows for employers to dismiss people based on language.

In order to better understand this clause, it may help to unpack how it is composed. First, the clause states that “nothing” renders the use of Chinese as unlawful (HKLC, 2008, p. 55). The word ‘nothing’ signifies that there is no exception. Language is not part of discrimination, and this specific word choice is purposeful and political. If nothing is rendered unlawful, then the law effectively states that language use is never discriminatory (cf. Hue & Kennedy, 2012). The word ‘nothing’ also means that language is rendered ‘insignificant’ if someone uses it as a form of discrimination. It also makes all other languages in Hong Kong invisible, containing no power in society. Considering the context around the language exception, the final sentence in this section states: “For the avoidance of doubt” (HKLC, 2008, p. 55). The use of this phrase clarifies that there are no provisions regarding language in the legislation, and it also casts away doubt in a literal sense. This lexical choice takes a political stance as it prevents ethnic minorities and immigrants that do not speak the official languages from taking part as legitimate citizens in Hong Kong. The language exclusion clause can be interpreted as a calculated move that creates distinct differences between the races in the city based on the languages they speak. Also, the language exclusion clause serves as a language policy pronouncement for the

government and for schools because it suggests that other languages should not be used. Also, this exception promotes racism by deeming that other languages are unimportant; the wording of the clause ignores the common fact that often people that experience linguistic discrimination are of a different racial background (cf. May, 2001; Pedrioli, 2011). Finally, this section inhibits a discourse of multiculturalism and multilingualism in Hong Kong. Purposefully excluding languages prevents a discussion of linguistic discrimination and implicitly states that only Chinese and English are valued in society (cf. HKLC, 2008). The language exclusion allows for legal, racial segregation in education, continuing to perpetuate stereotypes that ethnic minority students are not as successful as their Chinese peers (Fang, 2011; Gao, 2012).

CONCLUSION

Overall, CDA provides a useful methodology to examine the RDO and whether or not it achieves its purpose of prohibiting racial discrimination and promoting societal multiculturalism. Fairclough's (2010) basic three-step methodology reveals the complex nature the definitions of race, discrimination, and language segregation within the RDO. First, the definition and subsequent sections on race revealed that the policy does not promote cultural acceptance. Exclusion based on citizenship allows for immigrants to legally experience discrimination, despite the fact that national origin is considered to be part of race. Furthermore, the distinction between racial and social discrimination remains unclear in the legislation. Second, the section on discrimination demonstrated that the Legislative Council maintains the power to determine who is considered a discriminator, and what justifies an act of discrimination (HKLC, 2008). The overlexicalization and intertextual references in this section created an obscure definition of discrimination and seemingly allow people to continue to face injustice as a result of their national origin or linguistic background. Finally, the sections on education and language create an implicit language policy in Hong Kong. This policy suggests that it is permissible to discriminate against someone based on the language they speak (HKLC, 2008). As a result of the lack of protection for language in education, the RDO allows for students to be legally segregated in schools. While racial segregation in schools is not permitted in the RDO, the language exception clause creates space for the Education Bureau and educators to separate students based on their language. Thus, a policy designed to prevent discrimination, has resulted in continued exclusion of linguistic minorities and immigrants in the city, confirming Hue and Kennedy's (2012) suggestion that the RDO is a weak piece of legislation that serves more as a symbolic achievement rather than a tool to protect mistreated members in society. In conclusion, this analysis of the RDO demonstrates the need for continuing to work towards ethnic and linguistic equality in Hong Kong. Future research in Hong Kong should critically examine language in education policies for ethnic minorities and continue to explore how the RDO serves as a backdrop to problems in multicultural and multilingual education.

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ⁱ In September and October 2014, the struggles between Hong Kong and the PRC came to international attention through the Occupy Central Movement ("Umbrella Revolution"), and protests for democracy (So, Yu, Lau, & Mok, 2014). This protest reveals the tensions in the one country-two systems agreement, as well as the city's fight for autonomous decision-making. It is important to understand that influences from the Central Chinese government likely have some role in the policies made in Hong Kong regarding language, race, etc.

ⁱⁱ The Chinese medium of instruction policy has become a difficult topic since the Handover. Struggles between the Hong Kong government and the Chinese government have resulted in debates regarding whether or not 'Chinese' means Mandarin or Cantonese (cf. Lai & Byram, 2003; Li, 2009; Poon, 2010).

ⁱⁱⁱ The word *weitian* is interesting to note, as the word is from PTH rather than Cantonese.

^{iv} Minority groups in Hong Kong are perceived as racially different, non-Chinese peoples. American and British immigrants are generally not part of ethnic minorities. English has been an official language since the period of colonization.

^v Despite the promotion that CDA is trans-disciplinary, scholars contend that discourse and its analysis are only understood in Anglo-American and western intellectual traditions (Bloomaert, 2005; Cao, 2014). One goal is to explore how CDA can be understood across cultures and be diversified. Looking at the various approaches to CDA reminds us that the perspectives and methods are simply tools, and how one applies them and understands the context of their research matters.

^{vi} The RDO is written in both Chinese and English as per the official language ordinance of Hong Kong that names both as languages of the government. This paper examines the English document, making some references to Chinese words. The author understands basic written Chinese, although is not proficient enough to understand the entire document in Chinese. Friends and colleagues that speak Chinese as their first language provided assistance in looking at the document in order to make sure that the two translations were consistent.

^{vii} Although the RDO was enacted in 2008, it did not go into effect until 10 July 2009 (HKEOC, 2009).

^{viii} Here, the symbol '§' is utilized to refer to section numbers. This symbol is not in the document, but it helps provide organization to a discussion of the RDO. Reference to a section in the actual document simply says, "Section."