

政府總部
民政事務局

香港灣仔
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GOVERNMENT SECRETARIAT
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Clerk to Bills Committee on
Race Discrimination Bill
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road
Central, Hong Kong
Attn: Ms Joanne Mak
(Fax: 2509-9055)

12 February 2007

Dear Ms Mak,

Views on the Race Discrimination Bill

In June 2002, the Home Affairs Bureau established a Committee on the Promotion of Racial Harmony to advise the Government on public education and publicity to foster racial harmony in the community. In its meeting on 16 January 2007, the Committee discussed the Race Discrimination Bill and Members suggested the Bureau to make the notes of discussion available to the Bills Committee. Paragraph 3(k) of the draft minutes refer.

In this regard, I forward a copy of the draft minutes and a separate submission from a member of the Committee, Mr Manohar Chugh, for your circulation to Members of the Bills Committee. Thank you for your attention to this matter.

Yours sincerely,

(Shirley Chan)

for Secretary for Home Affairs

Committee on the Promotion of Racial Harmony
Notes of the meeting on 16 January 2007

Attendance

Chairman: Mr Donald Tong, Deputy Secretary for Home Affairs (1)

Member: Ms Raees Begum Baig
Mr Manohar Chugh
Mr Amarjeet Singh Khosa
Ms Annie Lin
Mr Khan Muhammad Malik
Mr Sem Lim Njauw
Ms Devi Novianti
Ms Adrielle Panares, MH
Ms Vandana Rajwani
Mr Buddhi Bahadur Thapa
Mr Saeed-Uddin, MH
Ms Wong Wai-fun, Fermi
Dr Yung Pui-yip, Paul
Ms Esther Chan (Labour Department)
Mr Ching Wai Hung (Education and Manpower Bureau)
Ms Li Wan-in (Home Affairs Department)
Mrs Angela Wong (Information Services Department)
Mr Victor Ng (Home Affairs Bureau)
Ms Shirley Chan (Race Relations Unit, Home Affairs Bureau)

Absence with apologies:

Mr James Arthur Elms
Ms Aruna Gurung
Mr Muhammed Javed Shahab

Item 1 – Confirmation of the notes of discussion on 15 September 2006

The notes of meeting on 15 September 2006 were confirmed.

Item 2 – Matters arising from the meeting on 15 September 2006

- 2(a) **Sunday Cultural Programmes – Culture in Motion:** The Chairman said ‘Culture in Motion: Nepal’ was successfully completed on 14 January 2007 at Kowloon Park Piazza. So far, the Race Relations Unit had organised six thematic cultural shows to showcase the cultures of the Philippines, Pakistan, Indonesia, Thailand, India and Nepal. The Committee agreed to organise a multicultural show as the seventh of the series. The meeting agreed that bearing in mind the objective of these events were to promote racial harmony, consideration should be given to, in addition to promoting the participation of the ethnic minorities, involving the local mainstream community to perform/take part in these events. It was resolved that a Working Committee would be formed to consider how best to take the project forward. Eight Members agreed to join the Working Committee.
- (b) **Equal Opportunities (Race) Funding Scheme 2006/07:** Ms Chan (HAB) reported that a total of 24 sponsored organisations carried out their projects in accordance with their approved proposals. Sponsored organisations were reminded to submit the project and financial reports by 15 February. In parallel, the Unit would launch the 2007/08 Funding Scheme by widely distributing posters and leaflets in March. It was agreed that a discussion group should be formed to consider whether there might be scope for improving the existing selection criteria and monitoring mechanism.

Item 3 – Race Discrimination Bill (CPRH paper no. C01/2007 and 2/2007)

3. The Chairman briefed Members on the papers. He added that the Bureau gazetted the Race Discrimination Bill on 1 December and introduced it into the Legislative Council on 13 December. A Bills Committee, comprising 24 members including chairlady the Hon Margaret Ng, already held its first meeting on 16 January to study the Bill in detail. In that meeting, the discussions primarily covered application of the Bill to new arrivals from the

Mainland, exception clauses particularly the one for languages, administrative measures to facilitate minority students to gain access to higher education, two week rules for foreign domestic helpers, the three-year 'sunset' clause for small employers, exceptions for "overseas packages". The Bills Committee planned to invite interested parties to offer their representations at a special meeting to be held on 3 March 2007. Members asked –

- (a) **is there a need to exempt small companies (meaning small companies employing not more than 5 employees) for 3 years after enactment of the Bill?**

The Chairman said that the exception was introduced as small companies had less flexibility and resources like large companies and hence would need more time to adapt to this new requirement. The exemption period would begin after enactment of the Bill rather than its commencement date. As the commencement date could only be firmed up after the Equal Opportunities Commission (EOC) had issued a code of practice to provide practical guidelines for compliance with the proposed legislation, it meant that the small employers would actually have less than three years to adapt to this new requirement;

- (b) **the Bureau to invite officials from the Department of Justice or the EOC for briefing two provisions of the Bill -**
- i) definition of indirect discrimination in clause 4; and**
 - ii) exception for languages in clause 58.**

The Chairman noted that request and said that officials of other bureaux/departments of would be invited to the meeting as and where necessary;

- (c) **what was the role of the Committee and the EOC on the Bill and whether the Bureau would consider to establish a "link" between the two or include a representative of the EOC to be a Committee Member so as to enhance the preparation work for the enactment of the Bill?**

The Chairman said that the Committee was an advisory body to the Government on race issues while the EOC was a statutory body which would be vested with the responsibility for enforcing the Bill. The Chairman added that there was already an EOC member in the Committee. However, consideration could be given to inviting EOC staff to join the Committee in future meetings to enhance cooperation between the two bodies on racial matters and to pave way for the implementation of the Bill. The Chairman said HAB would discuss the matter with the EOC;

- (d) **the credibility of the EOC to deal with the new task.**

The Chairman said that the Commission had accumulated over 10 years' experience in handling discrimination cases since its establishment in 1996 and had successfully resolved a few thousands of complaints launched under the three existing anti-discrimination legislations. We therefore considered that the Commission would be the most suitable agency in implementing the Bill;

- (e) **would foreign domestic helpers whose contracts expired or were terminated be given enough time to raise a complaint against their discriminators, owing to the exception clause on immigration policy?**

The Chairman said where justified, Immigration Department would

grant the complainants extension of stay until the conclusion of the court cases if lodged. The Chairman added that the absence of the complainant would not deprive the complainant of his or her right to lodge a complaint or pursue a legal claim in the matter. If the complainant was required to testify at court, the EOC might ask him or her to return to Hong Kong. In the course of investigation or mediation of a complaint, the Commission could communicate with the complainant in writing, or the complainant could appoint a person to act on his or her behalf;

- (f) how HAB could coordinate bureaux/departments within the Government to support the Bill?**

The Chairman explained that the Bill was an outcome of collective efforts by all relevant departments and bureaux. In drafting the Bill, departments/bureaux had worked hard to ensure that the proposed provisions could on one hand combat race discrimination but on the other hand would be practicable in implementation. He cited examples in the field of education and in recruitment of civil servants to demonstrate the work being done by relevant departments/bureaux in preparation of the enactment of the Bill. In response to demands from some Members, the Chairman said HAB would invite officials from the EMB to brief Members on the measures that they had/would put in place to cater for the interests of the ethnic minorities at a future meeting;

- (g) whether the official member of the Education and Manpower Bureau would refer the discussions in this meeting regarding education to his Bureau for follow up action?**

Mr Ching (EMB) responded affirmatively, stressing that EMB

attached importance to providing educational support services for the ethnic minority students and specific measures had been taken forward to facilitate their integration into the society, and that EMB had taken the lead and had met with the concerned groups such as Hong Kong Unison Ltd, Hong Kong Human Rights Monitor etc. in October and December 2006 respectively to update them on the educational support services for the ethnic minority students. He circulated an updated summary of the latest measures and support EMB provided to ethnic minority students. He said the summary would be produced in some minority languages. The Chairman suggested and EMB agreed:

- i) uploading the summary onto the EMB's homepage; and
- ii) providing the summary in minority languages to the Race Relations Unit for dissemination as well.

[Post meeting note: EMB confirmed after the meeting that the summary had been uploaded onto the EMB's homepage and that the summary in minority languages would be ready for distribution in March 2007.]

- (h) **whether exclusion of language in the Bill would lead the Government's failure in resolving the problem of languages barrier which had hindered ethnic minorities in gaining access to public services?**

The Chairman responded that the language was not made a ground of discrimination as many small service providers/employers did have serious difficulties in complying with such requirement and the removal of the language exception would subject them to unnecessary litigations. He further said that despite the requirement under the Official Language Ordinances that only one

official language (i.e. either Chinese or English) was required in our provision of Government services/information, the Government's policy was to maintain a fully biliterate (Chinese and English) civil service to ensure effective communication with all sectors of the community, and if necessary, translation service for non-English/non-Chinese speaking clients, although such services could only be made available with prior appointments bearing in mind the practical considerations. Members were asked to provide details of specific cases to the Bureau for referral to another bureaux/departments in case ethnic minorities encounter problems in this area;

(i) why the Labour Department failed to provide job advertisements in both Chinese and English?

Ms Chan (LD) briefed members on the range of employment services available for the ethnic minority job-seekers including employment briefings at job centres, leaflets in minority languages, job matching programme and so forth. She explained that with only a few exceptions, the essential items of vacancy information (e.g. occupation, working hours, salary and location of workplace) were shown in both English and Chinese on the Interactive Employment Service website. If ethnic minority job-seekers would like to know more about specific job vacancies, they could directly approach the staff at the job centres or the Telephone Employment Service Centre of the Labour Department.

At the request of Members, the Chairman suggested the Labour Department provide information on the number of job seekers from ethnic minorities and the number of successful cases from the Labour Department;

- (j) **would the Government re-submit a Bill as it failed support from concern groups?**

The Chairman said the Bureau had thoroughly considered and, where justified and appropriate, taken on board suggestions made by stakeholders before drafting the Bill. The proposed legislation had stricken the right balance between protecting individuals from racial discrimination and safeguarding personal freedom as well as interests of all parties concerned. The Government would work hard to win support from stakeholders so that the Bill could be enacted early to afford better protection to ethnic minorities against racial discrimination; and

- (k) **whether the discussion in the Meeting would be submitted to the Bills Committee?**

The Chairman said the discussion would be duly recorded in the notes and HAB would make available these to the Bills Committee. He added that Members could also submit their own views to the Bills Committee direct.

Item 4 – Any other business

4. In response to the Race Discrimination Bill, Ms Wong presented the views of the Hong Kong Unison Ltd. as detailed in its submission. She sought support from the Committee Members to endorse the submission.
5. Ms Panares mentioned that the International Social Services, Hong Kong Branch and the Wan Chai District Council would organise jointly a cultural show – Colour in Harmony – on 21 January 2007 at Paterson Street in Causeway Bay to promote racial equality and social harmony.

She invited Members to attend.

Item 5 – Date of Next Meeting

6. The next meeting was tentatively scheduled for April 2007.

**Race Relations Unit
Home Affairs Bureau
January 2007**