

**Delegation to the United Nation Committee
on the
Elimination of Racial Discrimination (CERD)
on the
Race Discrimination Bill of the Hong Kong SAR
Geneva, 3 March 2008**

Report

A briefing on the Race Discrimination Bill of the Hong Kong SAR (“the bill”) was given by a delegation of 9 persons organized by the Hong Kong Human Rights Monitor for the members of the United Nation Committee on the Elimination of Racial Discrimination “the Committee” on 3 March 2008 in Geneva.

For a list of the members of the delegation, see **Annex 1**. For a list of members of the Committee, see **Annex 2**.

A briefing session was held at 1:45 p.m. to 2:45 p.m. and was attended by 13 out of the 18 members of the Committee. Another member met us in an informal meeting after the briefing. A special group has been formed to study the bill and the submissions presented by the delegation. The unprecedented turnout and the formation of the special group signified the concern and attention of CERD on the bill.

Written submissions sent to the Committee beforehand included my submission, the joint submission of the delegation (excluding the Bar) and the two submissions of the Hong Kong Bar Association.

The overall concern expressed by the delegation was that the bill falls short of the requirement of the International Convention on the Elimination of All forms of Racial Discrimination (ICERD), falls short even of the pervasive standard of existing Hong Kong discrimination legislation, fails to bind the Government in the exercise of its functions and powers, adopts too narrow a definition of direct and indirect discrimination, excludes new mainland arrival as a distinctive ethnic group, and builds in large exemptions and immunities which will result in entrenching present discriminatory policies and practices of the Government.

In addition, individual members made the following submissions:-

Law Yuk Kai referred to the letter of the Committee to the Permanent Representative of the PRC Government last August and the overall dissatisfactory state of the bill.

Margaret Ng informed members of the Committee on the progress of the scrutiny of the bill and the concern of the bills committee, and explained the legislative arrangements and timetable and of the HKSAR which make it

imperative that the SAR Government makes major amendments to the bill to bring it to the requisite standard as a matter of urgency, failing which LegCo will be forced either to enact a defective legislation or to allow the bill to fall through.

Rimsky Yuen SC explained why the Bill of Rights Ordinance does not offer effective remedy against racial discrimination in Government actions and practices, presented the major areas of concern in the bill, and invited CERD to take appropriate action including: (1) give an overall assessment of the bill's compliance with ICERD, and (2) make recommendation on how the bill should be amended.

Kelley Loper highlighted the adverse educational impact of the bill by reason of its lower standard and narrower scope relative to other discrimination legislation, and the effect of the large exemptions provided in the bill to entrench existing discriminatory government practices.

Fermi Wong informed the Committee members of the actual discrimination faced by minorities in Hong Kong in the area of medical services, job seeking and education, and the fact that Government hospitals and job centres are already using the language exemption under the bill as sanction for their present discriminatory practices.

Patrick Yu addressed the legal aspects of the bill in some detail and related them to European jurisprudence on discrimination legislation.

Devi Novianti described the discriminatory and humiliating treatment minorities have to accept in order to give their children a chance in education, giving her own experience as illustration.

Members of the Committee appeared to have already taken the problems regarding Clauses 3 and 4 of the bill on board, and asked pertinent questions on a range of matters particularly on LegCo's timing and procedures for moving amendments and voting, the overall situation of minorities in Hong Kong, the use of Chinese and English and availability of schools using English as medium of instruction assessable to non-Chinese speaking minorities at assessable fees and charges. They emphasized to the delegation the importance of the use of languages, and a broad rather than narrow understanding of "race" within the meaning of ICERD.

In general, members of the Committee shown great interest, understanding and sympathy, and informed the delegation they will deliberate on the matter. The delegation expressed their thanks for the opportunity to address members of the Committee. The delegation also discussed with members of the Committee possible action to be taken under the "early warning" and "urgent action" procedure of CERD. Emphasis was laid on the importance for Hong Kong to enact a bill which sets down the right standard for racial equality as a

first step towards the elimination of all forms of racial discrimination.

Press releases in Hong Kong and press clippings and included in **Annex 3**.

Dated the 6th day of March 2008

Margaret Ng

**Delegation to the United National Committee
on the
Elimination of Racial Discrimination
Geneva, March 2008**

Members of the Hong Kong delegation

Mr. Law Yuk Kai	(Director, HK Human Rights Monitor)
Ms. Margaret Ng	(Chairperson, Bills Committee on Race Discrimination Bill, Legislative Council, HKSAR)
Mr. Rimsky Yuen	(Chairperson, Hong Kong Bar Association)
Mr. P.Y. Lo	(Chairperson, Council Member, HK Bar Association)
Mr. Patrick Yu	(Director, Northern Ireland Council for Ethnic Minorities)
Ms. Kelley Loper	(Representative, HK Against Racial Discrimination; Law Department, University of HK)
Ms. Wong Wai Fun Fermi	(Director, HK Unison)
Ms. Devi Novianti	(Representative, HK Unison)
Ms. Christina de Falco	(Representative, Asia Migrant Centre)

Annex 2

**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**
72nd session
18 February – 7 March 2008

MEMBERS OF THE COMMITTEE

Name of the member	Nationality	Term expires on 19 January
*Mr. Mahmoud ABOUL-NASR	Egypt	2010
*Mr. Nourredine AMIR	Algeria	2010
*Mr. Alexei S. AVTONOMOV	Russian Federation	2012
*Mr. Jose Francisco CALITZAY	Guatemala	2012
*Ms. Fatimata-Binta Victoire DAH	Burkina Faso	2012
*Mr. Regis de GOUTTES	France	2010
*Mr. Ion DIACONU	Romania	2012
*Mr. Kokou Mawuena Ika Kana (Dieudonne) EWOMSAN	Togo	2010
Mr. HUANG Yong'an	China	2012
*Mr. Anwar KEMAL	Pakistan	2010
**Mr. Morten KJAERUM (Co-ordinator)	Denmark	2010
*Mr. Dilip LAHIRI	India	2012
Mr. Jose A. LINDGREN ALVES	Brazil	2010
Mr. Pastor Elias MURILLO MARTINEZ	Columbia	2012
*Mr. Chris Maina PETER	Tanzania	2012
*Mr. Pierre-Richard PROSPER	U.S.A.	2012
Mr. Linos-Alexandre SICILIANOS	Greece	2010
*Mr. Patrick THORNBERRY	United Kingdom of Great Britain and Northern Ireland	2010

* Present at the briefing with the Hong Kong delegation on 3 March 2008

** Met with the Hong Kong delegation after the briefing

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LegCo Office of the Hon.
Margaret Ng

Fax

Press Release 4.3.2008

UNCERD expressed great interest and deep concern in the Hong Kong Race Discrimination Bill

Civic Party legislator Margaret Ng who has just returned this afternoon from a meeting with the United Nation Committee on the Elimination of Racial Discrimination (CERD) in Geneva says that the Committee expressed great interest and deep concern in the Hong Kong Race Discrimination Bill and may consider issuing a “early warning” letter to the PRC Government or taking “urgent action” under new procedures of the Committee.

Miss Ng was with a Hong Kong delegation organized by Hong Kong Human Rights Monitor Law Yuk Kai. Other members comprised Hong Kong Bar Association representatives, Chairman Rimsky Yuen SC and Mr. P. Y. Lo; Director of the Northern Ireland Council for Ethnic Minorities, Mr. Patrick Yu, Representative of the Hong Kong Against Racial Discrimination and Research Assistant Professor of the Law Department, University of Hong Kong, Ms. Kelley Loper; Hong Kong Unison representatives, Director Wong Wai Fun Fermi and Ms. Devi Novianti; Representative of the Asian Migrant Centre, Ms. Christina de Falco and Director of the Human Rights Monitor Mr. Law Yuk Kai.

The delegation was received by an unprecedented turnout of 14 out of the 18-member CERD, which has set up a special group headed by Mr. Patrick Thornberry (United Kingdom) to look into the matter and follow up action including early warning and urgent action.

“We have been given a very warm reception. Committee members have obviously read the submissions we have sent in advance and asked many pertinent questions. There is no doubt that Members of the Committee consider the Hong Kong bill in its current form short of the requirements of the ICERD (International Convention to Eliminate All Forms of Racial Discrimination) and are sympathetic. The question is what action they can take to be of assistance,” said Ms. Ng: “ I think the meeting was extremely fruitful and certainly worthwhile.”

A photo of the Hong Kong delegation can be downloaded from the following links:

<http://www.civicparty.hk/temp080304/P1000593.JPG>

<http://www.civicparty.hk/temp080304/P1000594.JPG>

Photo caption :

From left: Patrick Yu, Rimsky Yuen SC, Wong Wai Fun Fermi, Devi Novianti, Law Yuk Kai, Kelley Loper, Christina de Falco, Margaret Ng and P. Y. Lo

Fax

新聞稿 4.3.2008

聯合國消除種族歧視委員會關注本港對於消除種族歧視的立法內容和進展

身兼立法會《種族歧視條例草案》法案委員會主席的公民黨法律界議員吳靄儀聯同多位本地民間團體代表，在本月三日出席在瑞士日內瓦舉行的聯合國消除種族歧視委員會(下稱委員會)的公開會議，向委員會簡介香港目前就消除種族歧視的立法內容和進展，及對草案的關注範圍。

吳靄儀於今天(三月四日)下午返抵本港後表示，他們 9 人與委員會 18 位成員中的 14 位委員會面，為該委員會歷來最多成員與團體代表會面的一次。委員會在開會前已審閱了各團體代表事先提交的意見書，並對於香港團體及立法會議員親身向委員會作簡介表示感謝，認為各代表所提供的資料對他們非常有幫助。委員會非常關注香港的種族歧視情況及立法進展等問題，並在會上向各團體代表進一步詢問詳情。

除吳靄儀外，參與這次會面的香港民間團體代表包括香港大律師公會主席袁國強及執委會成員羅沛然、融樂會總幹事王惠芬及融樂會代表 Devi Novianti、種族平等聯盟代表、香港大學法律學院助理教授羅愷麗 (Kelley Loper)、香港人權監察總幹事羅沃啓、北愛爾蘭少數族裔委員會總監余仲賢及 Asian Migrant Centre 代表 Christina de Falco。

身兼立法會《種族歧視條例草案》法案委員會主席的吳靄儀指出，她在會上主要向委員會解釋草案的主要內容及立法會的立法時間表及投票程序，並反映草案委員會曾舉辦公聽會，聽取民間團體代表、學者及專家的意見。她亦向委員會反映團體及學者其中一項主要的關注，就是草案未能約束政府的歧視行為，擔心特區政府缺乏決心制訂合適法例，以充分保障香港少數族裔不受歧視。假如政府不及時提出切實的修正，立法會就會面對被迫通過一項不符國際公約要求的法案，或讓法案因不通過而失效的兩難。

香港大律師公會代表及 **Kelley Loper** 均向委員會反映，從法律角度，草案並不附合《消除一切形式歧視公約》的規定，大律師公會並建議委員會對條例草案作全面評估，然後向特區政府提出改善建議。

融樂會總幹事王惠芬則向委員會表達條例草案倘通過後，無助改善現時在公營機構（如醫院），或求職機構在語文方面對少數族裔所造成的歧視或不公平待遇。北愛爾蘭少數族裔委員會總監余仲賢則向委員闡述條例草案與其他地區相關法例的比較。而融樂會的成員 **Devi Novianti** 主要向委員會反映本港教育制度對少數族裔接受教育造成困難或不公平的情況。

委員會對於香港的種族歧視問題，十分關注，並已成立了一個專責小組討論及研究如何作出跟進。如有需要，委員會主席更可去信向相關成員國或地區政府提出預先警告(early warning)或採取急切行動 (urgent action)。總結這次行程，吳靄儀形容委員會成員均十分認真聽取及研究各團體代表的意見，對於如何協助香港制訂更完善的反歧視法例，顯出極大誠意。她對於同行成員致力消除香港種族歧視的誠意印象深刻，認為此行充實及有意義。

如欲索取照片，可從以下的連結下載：

<http://www.civicparty.hk/temp080304/P1000593.JPG>

<http://www.civicparty.hk/temp080304/P1000594.JPG>

圖片說明：

左一：余仲賢

左二：袁國強

左三：王惠芬

左四：**Devi Novianti**

左五：羅沃啓

左六：**Kelley Loper**

左七：**Christina de Falco**

左八：吳靄儀

左九：羅沛然

Bar to join race bill meeting with UN

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Bar chairman Rimsky Yuen Kwok-keung and another representative from the legal body will form part of a Hong Kong delegation to meet UN members in Switzerland next month over concerns about the controversial Race Discrimination Bill.

The trip will be a last-ditch effort for human rights groups to lobby for an amendment to the bill using external pressure. It will take place before Secretary for Constitutional and Mainland Affairs Stephen Lam Sui-lung is due to meet Legislative Council members to discuss the government's latest position on the bill on March 12.

Hong Kong Human Rights Monitor director Law Yuk-kai, Unison Hong Kong director Fermi Wong Wai-fun and Kelly Loper, of University of Hong Kong's law faculty, will fly to Geneva late this month to present minorities' views to the UN's Committee on Elimination of Racial Discrimination.

Mr Yuen and Lo Pui-yin, another member of the Bar Council, and barrister-legislator Margaret Ng Ngoi-yee, will present legal perspectives on the bill.

The bill, introduced in December after more than a decade of debate, met with a storm of criticism for its wide range of exemptions, especially government exemptions.

The exemptions cover such areas as the language of instruction in schools, preferential treatment of overseas staff for reasons other than race, and differential treatment on the basis of indigenous villager status, nationality and resident status.

Sources said the human rights groups would hold a press conference on Sunday about their trip and the Bar would release a statement on its position today.

It is understood that the government will make some concessions on the exemption issue. The bill will be discussed in an Executive Committee meeting shortly before Mr Lam's meeting in the Legislative Council.

Unison's Ms Wong said the bill should be in line with international standards and the other three pieces of anti-discrimination legislation in Hong Kong to which the government was bound. It should not be exempt from the race bill, she said.

"It is understood that the government wants to satisfy the NGOs by making the smallest concession possible. I really don't know how they are going to achieve that," she said. ■

**明報 2008-02-23 港聞 A10**  
**大律師公會下周赴日內瓦 種族歧視草案提質疑**

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【明報專訊】早前因接受委任為廣東省政協，而惹起公民黨大狀強烈批評的大律師公會主席袁國強，下周將會聯同執委羅沛然前往日內瓦，向聯合國消除種族歧視委員會解釋公會對《種族歧視條例草案》的立場，質疑《草案》容許政府在發牌、入境政策及警權等問題上存在種族歧視，違反聯合國《消除一切形式種族歧視國際公約》。

據了解，袁、羅二人是經由執委會同意前往日內瓦出席於 3 月 3 日舉行的聽證會，同行的還包括香港人權監察代表及立法會議員吳靄儀，向委員會表達對草案能約束政府的訴求，以及收緊種族歧視的定義。

提出草案能約束政府訴求

公會的立場書解釋，按照政府目前提交的草案，對一切政府行為沒有約束力，另外，草案對直接或間接種族歧視的定義過寬，甚至容許各方以實際方便為由作為歧視的豁免。

公會認為有關草案需要修訂，望能在聽證會上與各國代表討論。■

明報 2008-02-22 專輯 A06 聞風筆動 李先知
大狀公會赴歐「補飛」樹立捍衛人權形象

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2008 年應是新聞界的旺年，未及兩個月，已經發生了一連串過程精彩兼且劇力萬鈞的好新聞，先有民間電台挑戰律政司的風波；警方使用雷射槍出錯，導致律政司要大幅修改林建岳的超速控罪；著名女影星的裸照在網上突然大量湧現，接着更勾出了警方執法的漏洞；程翔又突然獲釋等等。每件事都足以令傳媒忙得不可開交，難怪新聞界近期已開始淡忘了早前轟動一時的香港大律師公會主席袁國

強當上廣東省政協委員的事件。不過，政壇耳語謂，此事最近有了新發展：曾被公民黨四大狀公開質疑不關注香港人權的現任大律師公會，決定派出主席袁國強遠赴瑞士日內瓦，爭取在聯合國消除種族歧視委員會的會議上發言，就特區政府提出的《種族歧視條例草案》表達意見。

袁國強在當上廣東省政協委員一役後，雖然順利連任大律師公會主席，但在會員大會上曾被公民黨大翻舊帳，直指他在過去一年裏，並沒有在一些重要的人權法治事宜上表態，包括沒有公開在《種族歧視條例草案》一事上表達意見。當日，袁國強曾強調，他對法治、人權及法律發展的堅持，不會有絲毫改變。

然而，其後發生的林建岳事件、鍾亦天案件，都不見大律師公會蹤影，令人很易有現屆大律師公會再沒有以前那般關注人權法治的印象。不過，政壇耳語透風謂，袁國強很快便會有一項捍衛人權的行動，那就是在下月 1 日，與公會的憲法及人權事務委員會副主席羅沛然一同遠赴瑞士日內瓦，出席聯合國消除種族歧視委員會的會議，表達他們的意見，包括建議《種族歧視條例草案》應同時把政府納入規管範圍，以及應該減少間接歧視的豁免條件。

圈中人指出，以往大律師公會甚少前往聯合國屬下的委員會表達對香港人權狀況的意見，即使是公民黨大狀們，如余若薇和湯家驊等出任大律師公會主席的年代，也未曾嘗試有過類似的舉動。過去一向低調的袁國強，如今突然高調赴歐，其中一個解釋是因為今次公會收到香港人權監察的邀請，並且認為應就《種族歧視條例草案》發聲，不過，稍有政治經驗的人都會意識到，當事人或多或少都是希望可以藉此重新樹立現屆執委會依舊關注香港人權法治的形象。

至於袁國強今次的行動，能否消弭公民黨的疑慮，當然言之尚早，但至少已贏得了幾位公民黨大狀的認同，並且願意公開表示，無論袁國強的動機為何，這次罕有地參與聯合國消除種族歧視委員會的會議，在國際舞台上發揮香港大律師公會的影響力，應是一件好事。

法律界一向是公民黨以至泛民主派視之為捍衛人權法治的堡壘。由於 9 月的立法會選舉將至，公民黨實不願在此時跟大律師公會處於對立狀態，尤其是在上月的會員大會一役中，已有人質疑公民黨想控制大律師公會，更令他們擔心事件發展下去，會引起法律界的內部分化。

政壇耳語謂，正因上述原因，公民黨的湯家驊和袁國強事後曾私下兩度食飯溝通。湯家驊指出，他希望能讓袁國強明白，為何大律師公會應捍衛法治人權。最終當然是希望袁國強能更多就這類問題表態。■

信報財經新聞 2008-02-23 政策政情 P03  
港府未表態派代表出席種族歧視會議

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聯合國消除種族歧視委員會下月初將審議香港種族歧視的情況，包括融樂會、人權監察及大律師公會等多個民間團體均會前往瑞士日內瓦出席會議，藉機會向聯合國反映他們對《種族歧視條例草案》的不滿。不過，港府接受詢問時並沒有回應有否向聯合國提交報告，或會否派出代表團出席會議。

根據消除種族歧視委員會二〇〇一年八月的要求，中國政府須在二〇〇三年一月向委員會提交新一份報告，但政制及內地事務局網頁只有一份文件介紹報告將涵蓋論題的大綱，日期為二〇〇六年十二月，沒有關於新一份報告本身的資料。該局發言人回覆本報詢問時，並無回應是否已透過中央向聯合國提交報告。

政制事務局發言人僅重申，據他們了解，聯合國消除種族歧視委員會曾致函中央政府，查詢有關《草案》的內容，中央政府亦已答覆委員會，表示將在近期提交履行《消除一切形式種族歧視國際公約》第十至十三次報告，該報告的香港特區部分將對《草案》進行詳細闡述。

人權監察總幹事羅沃啓指出，港府並無派代表團參加會議，也未向委員會提交報告，不過，委員會已安排在下月三日與香港民間團體成員會面。

約十個民間團體的代表，以及身兼《草案》委員會主席的公民黨法律界議員吳靄儀日內將啓程前往日內瓦，向委員會指出目前《草案》的問題。

大律師公會亦已向委員會提交立場書，主席袁國強和公會憲法及人權事務委員會副主席羅沛然將代表公會出席。■

香港特別行政區政府新聞處(中文版) 2008-02-24 新聞公報
政府回應有關《種族歧視條例草案》的評論

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回應一些非政府組織有關《種族歧視條例草案》(草案)的新聞稿，政府發言人今日(二月二十四日)重申當局銳意消除種族歧視，及立法保障香港的所有

人，包括少數族裔，免受種族歧視。 發言人亦強調政府的一貫政策是透過提供支援服務，以促進少數族裔人士的機會。 發言人說：「就草案第 3 條內有關法例適用於政府的情況，我們明白到所提的關注，尤其是以為條例草案給予政府廣泛豁免的錯誤印象。因此，我們正研究修改這條文的可能性，以清晰地表示這條草案如獲通過，是適用於政府的。」 發言人補充說：「政府正在研究是否有空間調校草案第 4 條有關對種族歧視的定義，與及間接歧視『切實可行』的驗證準則條文，以處理這條文所提出的驗證準則所帶來的疑慮。」 發言人並澄清草案第 8 條界定「種族」的涵義所指的種族、膚色、世系、民族或人種，與國際上根據《消除一切形式種族歧視國際公約》所採用的定義相符。 就草案內所列的例外條款，發言人解釋這些條款是為確保法律條文清晰明確，以避免在條例草案通過後出現誤會和不必要的爭議。加入這些例外條款的原因有以下數點：(a) 為確保一些旨在讓少數族裔人士受惠和促進他們平等機會的特別措施不會被視作種族歧視；(b) 為確保在合法及合理的情況下，條例能充分保障其他人應享的權利和自由的；(c) 為清晰界定條例草案的涵蓋範圍，使一些不擬規管的範疇在條例草案內獲得明確的保障和澄清。 發言人補充說：「各項建議的例外條款均已按照下列準則和基準嚴格審視，與國際普遍採用的原則一致。」這些準則為：(a) 有關條文有合理和必要的目的；(b) 有合理的理由支持；以及(c) 就目的和所需的保障程度而言，所列的例外情況是適度的。 發言人說政府會與立法會條例草案委員會緊密合作，以期在本立法年度內恢復條例草案二讀。 他並說：「中央政府已答覆聯合國消除歧視委員會：中國政府將於近期提交履行《消除種族歧視國際公約》第十至十三次報告，該報告的香港特區部份將會對《種族歧視條例草案》進行詳細闡述。」■

香港特別行政區政府新聞處(英文版) 2008-02-24

Press Release

Government response on Race Discrimination Bill

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In response to the press statement issued by a number of non-governmental organisations regarding the Race Discrimination Bill, a Government spokesman reiterated today (February 24) that the Government was committed to combat racial discrimination and to its objective to enact legislation to protect all people in Hong Kong, including the ethnic minorities, against racial discrimination. The spokesman also emphasised the Government's policy to promote equal opportunity for the ethnic minorities by providing the appropriate support services. In regard to the specific issues raised, the spokesman said, on Clause 3 which relates to the application of the Race Discrimination Ordinance to the Government, we appreciate the concerns in regard to the possible misimpression that a broad exemption is provided to the

Government. We are therefore considering the possibility of amending this clause to make it clear that the Bill, when enacted, will apply to the Government. The Government is considering whether there is scope for Clause 4, which relates to the definition of racial discrimination and the tests of justifications for indirect discrimination, to be refined in order to address the concerns which the tests embodied in the clause have given rise to," the spokesman added. As regards the definition of 'race' in the Bill, the spokesman clarified, the definition which means race, colour, descent, national or ethnic origin is consistent with that internationally adopted under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). "Responding to the question raised over the exception clauses, the spokesman explained that they were included in the Bill to ensure clarity and certainty of the legislative provisions, especially to avoid misunderstanding and unnecessary disputes after enactment of the Bill." These exception clauses have been proposed for appropriate reasons, including:(a) to ensure that special measures which are intended for bestowing benefits on ethnic minorities and promoting equal opportunities for them are not regarded as racial discrimination;(b) to provide for lawful and justified protection for the legitimate rights and freedoms of others; or(c) to delineate the scope of the Bill and to provide for clarity and uncertainty of the law in areas which were not intended to be covered by the Bill. The spokesman added, consistent with the principles of rationality and proportionality, which have been widely adopted by international human rights authorities, the proposed exception clauses have been critically examined against the following criteria." They are:(a) the provision serves a legitimate and needed purpose;(b) it is justified on reasonable grounds; and(c) the exception is proportional to the objective and to the level of protection required. The Government will work closely with the Bills Committee of the Legislative Council with a view to resuming second reading of the Bill within the current Legislative Council session, "the spokesman said. The Central People's Government had responded to the United Nations Committee on the Elimination of Racial Discrimination that the Government of the People's Republic of China would soon submit its consolidated 10th to 13th periodic reports on the implementation of the ICERD and that part of the reports, which concerned the HKSAR, would deal with the Race Discrimination Bill in greater detail," he added.

Ends/Sunday, February 24, 2008 Issued at HKT 18:36 ■

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【明報專訊】早前當上廣東省政協委員、遭公民黨批評甚少就人權法治表態的大律師公會主席袁國強昨表示，下月3日赴日內瓦出席聯合國聽證會解釋公會對《種族歧視條例草案》的立場，絕非「補飛」之舉。袁強調公會一直在本地跟進條例進展，並於去年向立法會呈交公會意見書。他說：「若說要『補飛』，還有很多事情可以做！」特區政府提出的《種族歧視條例草案》，由於建議不規管政府行爲，對間接歧視的定義又過窄，早前被聯合國人權委員會發信批評。袁國強將聯同執委羅沛然前往日內瓦，向聯合國消除種族歧視委員會解釋公會對《種族歧視條例草案》的立場。他指是次並非刻意高調出席聽證會，早在10年前，公會亦曾派員出席會議。

湯家驊：未回應雷射槍裸照案感失望早前批評公會「變質」的大律師公會前主席湯家驊稱，不想評論袁國強此行是否「補飛」，或是將功贖罪，但他認為大律師公會一直在種族歧視立法一事上不太主動，沒有出來評論條例草案的不公平內容。

他續稱，香港人對大律師公會及其主席有一份尊重，認為是獨立及公正人士，說話特別具分量，因此認為袁國強應該早些出來表明對條例草案的看法，引起社會關注。

至於最近發生多宗與司法制度及人權有關的事宜，例如警方雷射槍出錯、網上發布女星裸照及鍾亦天案的處理，湯家驊不明白為何大律師公會和袁國強至今都沒有回應，對此感到十分失望。

不過，袁國強認為，此行能讓公會暢快地與不同法制背景人士交流，希望聯合國方面能聽取公會對條例草案的意見，並稱回港後會就立法一事致力與政府交涉。

#### 將就大律師能否賣廣告諮詢

對於袁所指「仍有很多事情要『補飛』」，他指是公會希望未來一年可展開一系列變革討論，如就大律師能否賣廣告而成立特別委員會作諮詢，以及引進年資較淺的大律師為市民提供免費法律諮詢服務等。■

港府被轟漠視種族歧視

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【新報訊】香港人權監察批評，港府和中央政府至今未有回應聯合國「消除種族歧視委員會」，就條例草案提出的質疑，人權監察聯同立法會議員吳靄儀以及多個本港民間團體，將於3月3日到瑞士日內瓦，出席聯合國「消除種族歧視委員會」會議，反映港府制訂的《種族歧視條例》草案，違反人權公約及未能真正保障少數族裔。政府發言人回應指，當局銳意消除種族歧視，及立法保障香港的所有人，包括少數族裔，免受種族歧視，而政府的一貫政策是透過提供支援服務，以促進少數族裔人士的機會。■

團體轟種族歧視草案違人權

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【記者程泰祖報道】多個民間團體認為《種族歧視條例》草案違反人權公約，將派員出席下月在日內瓦舉行的聯合國消除種族歧視委員會會議，表達不滿。政府發言人回應謂，正研究草案中有關種族歧視的定義，以及與間接歧視有關的條文。

香港人權監察、融樂會等團體指出，聯合國去年8月曾致函特區政府，批評有關的條例草案對於直接及間接歧視的定義過於狹窄，並將大量政府行為轄免受法例管束，惟港府至今未有向聯合國提交資料解釋。團體代表計劃下月3日在日內瓦召開簡報會，要求聯合國敦促港府修訂條例草案。

下月赴聯合國請願

政府發言人回應時重申，當局銳意消除種族歧視，及立法保障香港的所有人，包括少數族裔，免受種族歧視，發言人亦強調政府的一貫政策是透過提供支援服務，以促進少數族裔人士的機會，當局正研究草案中有關種族歧視的定義，以及與間接歧視有關的條文，並強調草案當中的例外條款，是為免誤會及不必要的爭議。草案對「種族」一詞的定義，亦與聯合國公約相符，政府將與立法會緊密合作，在今年7月前恢復條例草案二讀程序。■

## 團體要求聯合國促港府修訂種族歧視條例草案

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多個民間團體的代表即將啓程前赴瑞士日內瓦，向聯合國消除種族歧視委員會成員反映《種族歧視條例草案》的立法情況，並會要求委員會作出權威性評估，敦促港府修訂《草案》內容。

團體並警告，若香港的情況未能讓委員會感到滿意，委員會或會更嚴厲地質疑港府的做法。港府發言人回應時重申，當局銳意消除種歧視，一貫政策是透過提供支援服務，促進少數族裔人士的機會。

人權監察總幹事羅沃啓【左二】表示，此行目的是要向聯合國簡介香港目前的立法內容和進展，並會列席消除歧視委員會的公開會議。身兼《種族歧視條例草案》委員會主席的公民黨吳靄儀【右二】指出，立法會經過年多會議，政府一直拒絕修改《草案》，要是今年年中前仍未能三讀通過，便會失效，使議員處於兩難。

種族平等聯盟代表、香港大學法律學院助理教授羅愷麗（Kelley Loper）【左一】強調，目前《草案》未能符合國際要求，不能讓香港履行國際責任。要是香港的情況未能令聯合國方面滿意，或者香港繼續拒絕向聯合國提交資料，委員會或會提出建議《草案》應如何修改，甚至用上「違反」之類的字眼表達對港府的不滿。

此外，對於港府未有在會期前如期將資料送抵聯合國，羅沃啓表示，不清楚問題在於港府還是中央政府，但在多項國際公約中，香港在履行《種族歧視公約》責任的紀錄的確較差，民間組織從聯合國收到的訊息是中國並無要求在會議上發言。吳靄儀透露，曾有港府官員表示，不派代表團到日內瓦出席會議，是因為沒有接獲聯合國種族歧視委員會方面的邀請。

政制及內地事務局發言人回應民間團體意見時重申，當局銳意消除種族歧視，及立法保障香港的所有人免受種族歧視，政府的一貫政策是透過提供支援服務，以促進少數族裔人士的機會。

發言人並表示，正研究修改關於政府豁免的條文的可能性，政府會與立法會草案委員會緊密合作，以期在本立法年度內恢復二讀。■

Panel vows to push for action on race discrimination bill

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A Legislative Council bills committee will consider proposing an amendment to the Race Discrimination Bill if the government continues to ignore its concerns, the committee chairwoman said yesterday.

Margaret Ng Ngoi-yee, who will join a delegation to Geneva early next month to attend meetings with members of the UN Committee on the Elimination of All Forms of Racial Discrimination, said it would be better for the government to initiate an amendment.

"If the government continues its refusal to amend the bill, or its amendments are insufficient to allay our concerns, our next step is to see whether the bills committee can motion for an amendment," she said.

Among the most controversial issues in the bill are its various government exemptions, narrow definitions of "direct" and "indirect" discrimination, and the exclusion of new mainland arrivals.

Ms Ng said committee members were frustrated with the government's inaction after the introduction of the bill in December 2006, and 18 committee meetings that followed.

Last night, a government spokesman insisted the administration was committed to combating racial discrimination.

He said the central government had told the UN committee that it would "soon" submit its periodic reports on implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which has been criticised by rights groups as long overdue. The government would consider amending a clause to make it clear that the bill, when enacted, would apply to the administration.

Ms Ng said the dilemma the committee faced was that if it refused to pass the bill by the end of July, it would lapse and it could be many more years before the government broached the issue again.

Law Yuk-kai, director of the Hong Kong Human Rights Monitor and a delegation member, said depending on the gravity of the situation, the UN committee could issue an "early warning" or "urgent action" report. ■

英文虎報 2008-02-25      Local      P10      Diana Lee  
**Group turns to UN for race bill help**

Representatives from human rights groups are to fly to Geneva next week to express their dissatisfaction with the Hong Kong government's Race Discrimination Bill before a United Nations committee.

Hong Kong Human Rights Monitor director Law Yuk-kai, who is a member of the Hong Kong delegation, said yesterday the group was taking the issue to the UN since the government had failed to respond to a request in August by the UN Committee on the Elimination of All Forms of Racial Discrimination for a further explanation.

The delegation hopes that in making the trip the government will be spurred into introducing an amendment to the bill before the end of the legislative session. The bill has been heavily criticized by concern groups for its wide range of exemptions for the government and public authorities.

For example, the Labour Department is not required to provide translations of job descriptions appearing on its vacancies lists, nor will a government hospital be obliged to provide interpreting services for patients.

It is also criticized for adopting too narrow a definition for direct and indirect discrimination and the exclusion of newly arrived mainlanders as a racial group.

The Hong Kong delegation will hold a briefing in Geneva on March 3 for members of the United Nations Independent Expert on Minority Issues and officials in the Office of the High Commissioner for Human Rights.

The representatives of the human rights group will also submit signatures of support collected from 13 of the 16 members of the Committee for the Promotion of Racial Harmony under the Constitutional and Mainland Affairs Bureau, 25 human rights and civil society organizations and 27 ethnic minority organizations.

Legislative Council Bills Committee chairwoman Margaret Ng Ngoi-yee, a member of the delegation, said about 20 meetings on the bill had been held but the government still refused to change its position. Other members of the Hong Kong delegation include Kelly Loper, a Hong Kong University research assistant professor with expertise in equal opportunities legislation, Hong Kong Unison director Fermi Wong Wai-fun and Hong Kong Bar Association chairman Rimsky Yuen Kwok-keung.

In response to media inquiries, a government spokesman reiterated the government was committed to enacting legislation to protect all people in Hong Kong against racial discrimination. With regard to concerns which have been expressed, the government is considering an amendment to make clear the clauses apply to the government as well. ■

太陽報 2008-02-29            港聞            A04  
歧視法港府允讓步

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【本報訊】多個關注少數族裔及內地新移民權益的團體，將於下周遠赴日內瓦，向聯合國消除種族歧視委員會投訴港府提出的《種族歧視條例草案》，未能符合有關國際公約要求。

為免遭有關委員會譴責，政制及內地事務局局長林瑞麟前日連忙去信立法會，答應就草案部分內容作出讓步，但團體批評有關讓步欠具體及不足，決定繼續成行。

團體對草案內容主要有四點不滿，包括豁免政府的歧視行為，不受草案規管，對何謂間接歧視的定義過窄，不規管針對內地新移民的歧視，以及不肯規定政府醫院及學校等公共服務，須照顧不懂中英文的少數族裔人士需要。

林瑞麟在信中指出，政府將會提出修正案，訂明政府行為也受到草案規管，又會參考國際經驗修訂間接歧視的定義，但堅拒將新移民歧視納入草案保障範圍，又只肯有限量增加對少數族裔的援助和資源，拒絕立法禁止在語言方面造成的歧視。 ■

團體向聯合國投訴港歧視草案

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【本報訊】多個關注少數族裔及內地新移民權益的團體，將於下周遠赴日內瓦，向聯合國消除種族歧視委員會投訴港府提出的《種族歧視條例草案》，未能符合有關國際公約要求。為免遭有關委員會譴責，政制及內地事務局局長林瑞麟前日連忙去信立法會，答應就草案部分內容作出讓步，但團體批評政府的讓步欠缺具體及不足，決定繼續成行。

團體對草案內容主要有四點不滿，包括豁免政府的歧視行為不受草案規管，對何謂間接歧視的定義過窄，不規管針對內地新移民的歧視，以及不肯規定政府醫院及學校等公共服務，須照顧不懂中英文的少數族裔人士需要。

政府讓步將提出修訂

林瑞麟在信中指出，政府將會提出修正案，訂明政府行為也受到草案規管，又會參考國際經驗修訂間接歧視的定義，但堅拒將新移民歧視納入草案保障範圍，又只肯有限量增加對少數族裔的援助和資源，拒絕立法禁止在語言方面造成的歧視。

融樂會總幹事王惠芬及立法會種族歧視草案委員會主席吳靄儀，均形容有關讓步是「有好過冇」，但不夠具體，須看過真正的修訂條文，才能決定會否收貨。■

Discrimination bill merits review for fairness' sake

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The government's decision to introduce a Race Discrimination Bill last year was a welcome, although long overdue, step. Legislation is needed to comply with Hong Kong's international obligations and to uphold our reputation as a tolerant, multi-ethnic society in which rights are respected. It is extremely important that the law, which is being scrutinised by lawmakers, meet international standards and work as an effective safeguard. It should be a law that we, as a community, can be proud of.

Sadly, it has become clear during the legislative process that the bill in its current form falls short of these goals. And as a result, a United Nations committee

overseeing the relevant international convention signed by Hong Kong has become involved. Local lawyers are among those who have flown to Geneva, where they will express their concerns about the bill to the committee tomorrow. The government will also put its arguments to the committee.

The law should help promote tolerance and prevent discrimination. It should provide a mechanism for the mediation of disputes and ensure fairness to all. But critics have warned that too many exemptions will exclude much of the government's operations from the proposed law and may even legitimise discriminatory practices. It is rare to have most of the members of a bills committee - cutting across party lines - objecting to the terms of a government bill. But so far, officials have been unwilling to make amendments.

Chief among the concerns is that the government and other public bodies would largely be exempted from the terms of the proposed bill. This is a departure not only from international norms, but also from existing local laws that ban discrimination on the basis of sex and disability. The government has argued that the Bill of Rights already enables individuals to take legal action against the government for discrimination. But the Bill of Rights does not provide an efficient and effective means of dealing with everyday discrimination. It usually requires seeking a judicial review, a time-consuming and costly process.

In the past, the government has been at the forefront of anti-discrimination education. And as the city's largest employer, its record compares favourably with that of the private sector. There is no reason to believe it will fare worse in the future. It, therefore, should have nothing to fear from the law.

There are also concerns that the definition of discrimination in the bill is too narrow and that the exemptions go further than necessary. For example, the bill makes an arbitrary distinction between direct and indirect discrimination. Indirect discrimination involves general rules or practices whose results negatively affect specific racial groups. The bill lays down tests which must be met before such situations can be covered by the law. Even the government is not sure whether some practices under discussion would amount to indirect discrimination under the bill. Members of the general public would, no doubt, be even more confused.

There is much room for discussion before the bill is passed. But the government should carefully consider the criticisms and make the amendments needed to ensure

Hong Kong's long wait for this legislation ends with a clear, effective and exemplary law. ■

南華早報 2008-03-02 EDT EDT2 Yau Chui-yan and Polly Hui
Anson Chan questions political will on race bill

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Ahead of a UN meeting in Geneva tomorrow that will discuss Hong Kong's proposed racial-discrimination legislation, lawmaker Anson Chan Fang On-sang has said the government's handling of the issue "reflects a lack of political will".

The UN Committee for the Elimination of Racial Discrimination will meet to discuss Hong Kong's race discrimination bill, which was tabled for lawmakers' consideration in December 2006.

Representatives from different human rights groups, Hong Kong Bar Association chairman Rimsky Yuen Kwok-keung and Margaret Ng Ngoi-yee, chairwoman of the bill's committee, will attend the Geneva meeting, but no representative from the Hong Kong government will be there.

Legislators and rights groups are frustrated that the government has not been willing to remove clauses in the bill that exempt the government from legal liability.

The United Nations High Commissioner for Human Rights has previously commented on the bill in a letter to Beijing that was handed on to the Hong Kong government. The city responded by saying that the bill excluded "the statutory right to seek redress against racial discrimination perpetrated by state authorities".

However, Secretary for Constitutional and Mainland Affairs Stephen Lam Sui-lung told the Legislative Council bills committee last Wednesday that the law would be amended to make it binding on the government.

Mr Lam made a similar commitment in a late-January letter to Legco, without detailing any amendments. He told legislators then that he first had to discuss the issue with different government departments.

But Mrs Chan told the Sunday Morning Post: "It is necessary to discuss [the issue]

with different departments, but they will only look at it from their own angles. [Legislation on] important topics like race discrimination should not be led by departments.

"In the past, anti-discrimination legislation was led by the top level of government. There was interdepartmental co-ordination. In respect of issues like racial discrimination, the government has to educate not only the public but civil servants and individual departments."

Ms Ng, who met Mr Lam on Friday to discuss the latest government position, said she remained unconvinced that the government was committed to eliminating racial discrimination. "A proper law against racial discrimination can by no means be replaced by short-term support measures for minorities." ■

南華早報 2008-03-02 EDT EDT10 editorial

**Discrimination bill merits review for fairness' sake**

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The government's decision to introduce a Race Discrimination Bill last year was a welcome, although long overdue, step. Legislation is needed to comply with Hong Kong's international obligations and to uphold our reputation as a tolerant, multi-ethnic society in which rights are respected. It is extremely important that the law, which is being scrutinised by lawmakers, meet international standards and work as an effective safeguard. It should be a law that we, as a community, can be proud of.

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There is much room for discussion before the bill is passed. But the government should carefully consider the criticisms and make the amendments needed to ensure Hong Kong's long wait for this legislation ends with a clear, effective and exemplary law. ■

星島日報 2008-03-05 每日雜誌 A19 維港會
吳靄儀開會破紀錄

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身兼立法會《種族歧視條例草案》法案委員會主席的吳靄儀，與香港大律師公會主席袁國強及融樂會總幹事王惠芬等九人，昨出席完在日內瓦舉行的聯合國消除

種族歧視委員會(委員會)的公開會議後返港。在瑞士期間，他們與十四位委員會成員會面，創下歷來最多委員與團體會面的紀錄。她向委員反映團體及學者關注草案未能約束政府的歧視行為，及擔心政府缺乏信心制定法例，保障本港少數族不受歧視。■

蘋果日報 2008-03-05 專欄專論 A19 隔牆有耳 李八方

隔牆有耳：吳靄儀俾阿嬤趕至肯走

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公民黨議員吳靄儀 (Margaret) 星期一飛咗去日內瓦，同人權監察總幹事羅沃啓、大律師公會主席袁國強會合，參加聯合國消除種族歧視委員會會議。Margaret 此行係投訴港府的《種族歧視條例草案》唔符合國際公約要求。噶日由日內瓦趕返香港開立法會。既 Margaret 向八方講，今次聯合國委員會 18 個代表入面，有 14 個人同佢哋開會，顯示佢哋好關注香港人權狀況，其中一個仲同佢哋好好傾，喺間餐廳傾到俾掃地阿嬤趕至肯走。八方聽聞，聯合國代表今次會後，決定成立小組跟進香港情況，如果港府唔妥善修改《種族歧視條例草案》，相信會俾聯合國批評。■

明報 2008-03-05 政情 A10
聯合國跟進港《歧視草案》

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【明報專訊】關注少數族裔和內地新移民權益的團體共 9 人，一連 3 日到瑞士日內瓦聯合國，力數香港現正審議的《種族歧視條例草案》(草案) 四大漏洞，委員亦同意香港的草案「很有問題」。隨團的立法會議員吳靄儀指出，若要聯合國「出聲」批評香港，作為國際金融中心的香港便相當「失禮」。

吳靄儀和大律師公會主席袁國強、融樂會總幹事王惠芬、香港人權監察總幹事羅沃啓等一行 9 人，早前獲聯合國「消除種族歧視委員會」接見，委員會特別成立專責小組跟進香港情況。

吳靄儀：香港不應「失禮」

吳靄儀表示，來自不同國家的委員聽罷他們介紹香港的《草案》後，均表示草案「很有問題，絕非小事」。她續說，會上她反映了一直關注的四大要點，包括豁

免政府歧視行為不受規管、對間接歧視的定義過窄、拒絕規管對新移民的歧視，和拒絕規定政府醫院及學校等服務須照顧不諳中英文的族裔人士需要，她批評現時草案與國際相關的公約內容相距甚遠。

港府：準備修改草案

吳靄儀指出，聯合國的委員會可向香港提出「預先警告」和採取「急切行動」，現階段尚未知道對方的行動。

她認為，若待聯合國在國際上公開指摘香港，屆時作為國際金融的香港定必蒙羞。她敦促港府應努力做到種族平等。

政制及內地事務局發言人指出，當局準備修改相關草案，訂明政府行為也受草案規管，並認為草案足以保護受種族歧視的人。■

信報財經新聞 2008-03-05 政策政情 P09  
聯合國不滿港府種族歧視草案

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自從《種族歧視條例草案》公布以來，一直被民間團體質疑未能符合國際公約要求。曾與聯合國消除種族歧視委員會會面的法律界立法會議員吳靄儀【圖右二】指出，委員對香港的情況非常關注，有個別委員更表示相當不滿。港府發言人回應時強調，相信立法已符合聯合國公約要求，為不同族裔提供足夠保障。

多個民間團體代表團在星期一趁聯合國消除種族歧視委員會於瑞士日內瓦召開會議，到當地與委員見面，並列席部分公開會議。代表獲多達十四名委員接見，而其他聯合國與人權工作相關的機構亦派代表出席，代表團成員之一、人權監察總幹事羅沃啓【圖中】形容，與聯合國打交道十多年來，從未得到如此重視的對待。

以公民黨代表出席的《種族歧視草案》委員會主席吳靄儀指出，有個別委員對香港目前情況感到相當不滿。她認為，委員會非常認同香港民間團體的觀點，即《草案》不應對政府作出豁免、間接歧視定義過窄、應包括語言歧視，以及不包括新移民。

吳靄儀並特別提到，對於新移民應否納入《草案》，委員會認為「種族」

不應狹義地定義，單以血緣去界定種族已不合時宜。她指出，新移民在香港是很清晰的群體，有不同的方言和口音。

羅沃啓表示，消除種族歧視委員會已將香港的問題交由一個專責小組跟進，該專責小組可研究應否按照委員會的機制，採取進一步行動，例如作出預警（early warning）甚至緊急行動（urgent action），並且會在今後持續跟進香港的情況。他認為，委員會感覺到香港的問題很嚴重，相信日內會有所決定。

政制及內地事務局發言人回覆查詢時表示，已向《草案》委員會表示，準備對《草案》作出修訂，使《草案》對政府有約束力。該局認為已符合聯合國公約的要求，並為消除種族歧視提供足夠保障。

不過，吳靄儀質疑，《草案》仍豁免政府行爲，有關修訂並無意義。■

南華早報 2008-03-05 EDT EDT2 Yau Chui-yan and Albert Wong
HK at risk of attack by UN on race bias law

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Hong Kong could face criticism from a United Nations panel if proposed laws against racial discrimination fail to eliminate bias.

The UN actions could include sending letters of criticism to the government or, worse, labelling the issue as an "urgent action", which would effectively put the city government on its watch list, local delegates attending a hearing under the UN Committee on the Elimination of Racial Discrimination said.

That would be a serious embarrassment to the authorities, the activists said.

Law Yuk-kai, director of Hong Kong Human Rights Monitor, said: "In the worse-case scenario, the issue could even be referred to the UN General Assembly, though this is pretty unlikely."

The bill was first tabled in the Legislative Council in December 2006. Legislators and rights groups have long been frustrated that the government has been unwilling to remove clauses in the bill that exempt it from legal liability.

Civic Party legislator Margaret Ng Ngoi-ye, chairwoman of the bill's committee in Legco who has just returned from the Geneva hearing, said the UN committee was deeply concerned about the issue.

"The committee has a thorough understanding of the bill. Some members expressed concerns in private that the legislation was problematic," she said.

Mr Law, who also attended the meetings, said he believed the UN committee was considering follow-up action to express its concern.

A spokesman for the Constitutional and Mainland Affairs Bureau said it had already indicated to the bill's committee that the government was prepared to amend the proposals to make it clear that the ordinance would bind government actions and be consistent with UN conventions. No representative from the Hong Kong government attended the hearing.

The Hong Kong delegates said the UN committee put strong emphasis on the bill compared with other Hong Kong issues previously raised in the UN. There was an unprecedented high turnout of 13 out of 18 expert members of the committee at the meetings.

Mr Law said from Geneva: "In my 10 years of attending such meetings, I have never seen such a good turnout, and it shows they are taking this matter very seriously."

The delegates said the chairman of the hearing, Patrick Thornberry from Britain, admitted that introducing legislation on race discrimination in Hong Kong was a problem left by the colonial government. ■