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6 December 2017

Ms Joanne MAK
Clerk to Subcommittee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road,
Central, Hong Kong

Dear Ms MAK,

**Subcommittee on Rights of Ethnic Minorities
Motions passed at the meeting on 6 November 2017**

Thank you for your letter dated 8 November 2017. The responses of the HKSAR Government to the three motions under the agenda item “Implementation and review of the Race Discrimination Ordinance” passed by _____ the Subcommittee on 6 November 2017 are at **Annexes I to III** please.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Cathy LI'.

(Miss Cathy LI)
for Secretary for Constitutional and Mainland Affairs

Subcommittee on Rights of Ethnic Minorities

**Motion passed under agenda item I
"Implementation and review of the Race Discrimination Ordinance"
at the meeting on 6 November 2017**

Given that the existing Race Discrimination Ordinance ("RDO") is full of loopholes and fails to provide ethnic minorities with full protection, and that the threshold for substantiating complaints of racial discrimination is extremely high, this Subcommittee requests the Government to amend RDO by providing that apart from the provision of services, it is also unlawful for the Government to discriminate in performing its functions and exercising its powers, such that when the Government performs its functions and exercises its powers, people of different ethnic groups will be protected from racial discrimination.

Response from the HKSAR Government

The Government is committed to eliminating racial discrimination and promoting equal opportunities for ethnic minorities (EMs). The Race Discrimination Ordinance (Cap. 602) (RDO), which came into full operation in July 2009, purports to protect people against discrimination, harassment and vilification on the ground of race. According to the RDO, it is unlawful to discriminate in specified areas, including employment; education; provision of goods, facilities, services and premises; election and appointment matters of public bodies etc; arrangements in relation to barristers and membership of clubs. It is also unlawful to racially harass another person (i.e. engaging in unwelcome conduct, in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) in these fields.

2. The RDO binds the Government (section 3 of the Ordinance) and therefore, prohibits discriminatory acts and practices of the Government and other public authorities in all the areas specified in the RDO, such as employment; education; the provision of goods, facilities or

services;, and the disposal or management of premises. In particular, section 27 of the RDO renders it unlawful for the HKSAR Government to discriminate against a person in the provision of the services of any department of the HKSAR Government or any undertaking by or of the HKSAR Government.

3. It should be emphasised that public bodies have always been prohibited from practising racial discrimination under the HKSAR's legal framework. The Hong Kong Bill of Rights Ordinance prohibits the HKSAR Government and public authorities from engaging in practices that would entail any form of discrimination, including discrimination on the ground of race. Avenues are also available to address complaints against public authorities through the Ombudsman, complaint channels in Bureaux and Departments, and the Legislative Council, etc.

4. The Equal Opportunities Commission (EOC) is the enforcement agent of the RDO. From 1 January to 30 November 2017, the EOC received a total of 64 complaints under the RDO. Most of the complaints are related to racial vilification. The EOC have already conducted investigation or taken follow-up actions for these complaints as appropriate. As advised by the EOC, the implementation of the RDO is generally smooth.

**Constitutional and Mainland Affairs Bureau
December 2017**

Subcommittee on Rights of Ethnic Minorities

**Motion passed under agenda item I
"Implementation and review of the Race Discrimination Ordinance"
at the meeting on 6 November 2017**

In 2013, the Equal Opportunities Commission ("EOC") conducted a review of the four discrimination ordinances and made 73 recommendations to the Government, including 27 prioritized recommendations. However, the Government only agreed to accord priorities to nine of these recommendations. This Subcommittee considers that the Government should accord priorities to the 27 recommendations made by EOC, including amending the Race Discrimination Ordinance by providing that it is unlawful for the Government to discriminate in performing its functions and exercising its powers.

Response from the HKSAR Government

The EOC submitted its report on the Discrimination Law Review to the Government last year. We intend to focus on those recommendations that are considered to be capable of driving consensus among stakeholders and society, with a view to taking forward necessary legislative amendments in a step-by-step manner. Having consulted the Legislative Council Panel on Constitutional Affairs, we will take forward nine recommendations of priority, of which seven involve the Race Discrimination Ordinance (Cap. 602) (RDO)¹ such as providing

¹ The Government will take forward nine recommendations of priority, of which seven involve the RDO:

- (a) prohibiting discrimination and harassment on the ground of race of an "associate" instead of a "near relative" under the RDO;
- (b) providing protection from direct racial discrimination and racial harassment by "imputation" in the RDO;
- (c) providing protection from sexual, disability and racial harassment to persons in a common workplace (such as consignment workers) in the Sex Discrimination Ordinance (Cap. 480) (SDO), the Disability Discrimination Ordinance (Cap. 484) (DDO) and the RDO;

protection from direct racial discrimination by “imputation”. We are working intensively on the relevant legislative amendment proposals and aim to submit them to the Legislative Council in the 2017-18 legislative session. We will continue to carefully study the content of the submissions and consider how to follow up on the recommendations, while maintaining communication with the EOC.

2. The RDO, which came into full operation in July 2009, purports to protect people against discrimination, harassment and vilification on the ground of race. According to the RDO, it is unlawful to discriminate in specified areas, including employment; education; provision of goods, facilities, services and premises; election and appointment matters of public bodies etc; arrangements in relation to barristers and membership of clubs. It is also unlawful to racially harass another person (i.e. engaging in unwelcome conduct, in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) in these fields.

3. The RDO binds the Government (section 3 of the Ordinance) and therefore, prohibits discriminatory acts and practices of the Government and other public authorities in all the areas specified in the RDO, such as employment; education; the provision of goods, facilities or services; and the disposal or management of premises. In particular, section 27 of the RDO renders it unlawful for the HKSAR Government to discriminate against a person in the provision of the services of any department of the HKSAR Government or any undertaking by or of the HKSAR Government.

4. It should be emphasised that public bodies have always been prohibited from practising racial discrimination under the HKSAR’s legal framework. The Hong Kong Bill of Rights Ordinance prohibits the HKSAR Government and public authorities from engaging in practices that would entail any form of discrimination, including discrimination on

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- (d) providing protection from disability and racial harassment of service providers by service users under DDO and RDO;
 - (e) providing protection from disability and racial harassment of service providers by service users under DDO and RDO, where such harassment takes place outside Hong Kong, but on Hong Kong registered aircraft and ships;
 - (f) providing protection of tenants or sub-tenants from sexual, disability or racial harassment by another tenant or sub-tenant occupying the same premises under SDO, DDO and RDO; and
 - (g) repealing provisions which require proof of intention to discriminate in order to obtain an award of damages for indirect discrimination under the SDO, the Family Status Discrimination Ordinance (Cap. 527) and the RDO.

the ground of race. Avenues are also available to address complaints against public authorities through the Ombudsman, complaint channels in Bureaux and Departments, and the Legislative Council, etc.

Constitutional and Mainland Affairs Bureau
December 2017

Subcommittee on Rights of Ethnic Minorities

**Motion passed under agenda item I
"Implementation and review of the Race Discrimination Ordinance"
at the meeting on 6 November 2017**

At the time of reviewing the Race Discrimination Ordinance, the Government should in parallel consider providing GovHK-style translation and interpretation services for ethnic minorities (EMs), with a view to facilitating improvement in Government's healthcare and housing services, etc. for the ease of ethnic minorities.

Response from the HKSAR Government

Various bureaux/departments (B/Ds) of the Hong Kong Special Administrative Region Government have been providing services to meet the needs of EMs under their respective policy areas, with a view to facilitating the EMs integrate into the society. The B/Ds concerned will provide suitable assistance to the EM service users according to these users' practical needs, including interpretation services, thereby facilitating their equal access to public services.

2. Since the interpretation needs of EMs vary depending on what public services they are accessing to, the B/Ds will consider the actual situation and adopt appropriate procedures to provide interpretation services to EMs in need.

3. The Home Affairs Department has commissioned the Hong Kong Christian Service to operate the Centre for Harmony and Enhancement of Ethnic Minority Residents (CHEER). Apart from a variety of basic services such as tailor-made classes, counselling services and integration programmes, the CHEER Centre also provides general interpretation and translation services. Interpretation services are mainly instant telephone interpretation and enquiry services. Depending on the availability of resources, on-site interpretation or simultaneous interpretation services can also be arranged. At present, there are 17 EMs working in the CHEER Centre responsible for providing a variety of

services, including interpretation and translation services. Government departments like the Housing Department (HD) has uploaded onto the websites of the Housing Authority (HA) / HD key information pertaining to public rental housing (PRH) application, as well as the telephone interpretation service hotline offered by the CHEER Centre in six EM languages. Hard copies of the said information are also available for the public at the HA Customer Service Centre (HACSC) in Lok Fu.

4. Two EM Hall Attendants have been employed to offer assistance to PRH applicants including the EMs in the HACSC. When processing PRH applications from EMs, staff of HD will attach an information note written in six EM languages to the notification letters sent to the PRH applicants concerned, informing them of the interpretation service provided by the CHEER Centre for attending the detailed vetting interview or flat selection. Upon receiving interpretation service request, the CHEER Centre will notify HD to arrange on-site interpretation or to set up webcam to enable CHEER Centre to provide interpretation service during detailed vetting interview. In case the applicant has not made prior request but wishes to have such service at the time of interview, HD will contact the CHEER Centre to see if interpretation service can be arranged on spot through 3-way telephone conference or webcam.

5. When implementing various housing schemes (such as Express Flat Allocation Scheme, Living Space Improvement Transfer Scheme, Territory-wide Overcrowding Relief Transfer Exercise), HD will send the relevant application forms, application guides, relevant documents, etc. to the EM support service centres, including the CHEER Centre, in advance to facilitate their services provision to EM applicants. When EM applicants turn up for flat selection for the above housing schemes, HD will provide the key information and workflow pertaining to the housing schemes in six EM languages to facilitate their flat selection process.

6. Furthermore, since November 2016, the Hong Kong Police Force has expanded its joint project with the CHEER Centre entitled "TRANSLINK" to cover all 67 police report rooms and reporting centres. Under the project, instant telephone interpretation services in seven common non-ethnic Chinese languages, namely Urdu, Nepali, Punjabi, Hindi, Bahasa Indonesia, Thai and Tagalog, could be provided.

7. Interpretation and translation services in specialised areas do not fall within the service scope of the CHEER Centre. B/Ds may procure appropriate interpretation and translation services to meet their respective

service needs in accordance with the Stores and Procurement Regulations. For instance, interpretation services covering 18 EM languages are provided for in public hospitals and clinics under the Hospital Authority (HA) primarily through a service contractor, the HKSKH Lady MacLehose Centre (the Centre), part-time court interpreters and relevant consulates. At present, the Centre employs more than 100 interpreters who have all received training in medical-related knowledge as well as communication skills.

8. HA has also formulated guidelines for its staff on the procedures of arranging interpretation services. Staff of HA will arrange on-site or telephone interpretation services according to the needs of each case or at the request of patients. To ensure the quality of the interpretation service, HA also pays close attention to the users' comments and feedback. According to previous questionnaire surveys conducted by HA, service users are generally very satisfied with the interpretation services provided in hospitals and clinics.

9. CMAB will coordinate with various B/Ds and public authorities to see whether there is room for improvement in the provision of interpretation services to EMs and explore the feasibility of drawing up standard guidelines and procedures for interpretation services. In this respect, CMAB has provided an additional allocation of \$3 million to the Ethnic Minorities Unit (the EM Unit) of the Equal Opportunities Commission in 2017-18. The EM Unit will embark on a series of initiatives for the purpose of promoting equal opportunities for EMs including the one on exploring the prospect of introducing accreditation for interpreters of EM languages.

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