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(This is only a translation of the Chinese version, which is taken as the official reply of Unison Hong Kong)

Mr. Lam Woon Kwong
Secretary for Home Affairs
Home Affairs Bureau
31st Floor, Southorn Centre
130 Hennessy Road
Wan Chai
Hong Kong

15 January 2002

Dear Mr. Lam

Legislation on Racial Discrimination

Thank you for your letter dated 21 November 2001 (your reference HAB/CR/1/19/102Pt.2). Unison Hong Kong is pleased to express our standpoint on the introduction of legislation against racial discrimination. To clarify our viewpoint, we shall quote some real cases for your reference. We shall also comment on the deficiencies of existing legislation and some of the views expressed by the business sector (as included in the Annex to your letter).

(A) Standpoint

We strongly support the enactment of legislation against racial discrimination. Racial discrimination exists commonly in Hong Kong and is adversely impacting extensively the normal daily lives of ethnic minority groups to a serious extent. The Registered Social Workers of Unison Hong Kong are mainly responsible for rendering various kinds of services (as stated in the pamphlet enclosed) to the vulnerable groups of the ethnic minorities (mainly youngsters and their parents of the South Asians and South East Asians). It is evident from the front-line experiences of our social workers and the cases they encountered, racial discrimination exists in all walks of life in Hong Kong. Not only that the feelings of the people being discriminated is seriously hurt; rights of these people are also deprived of. There is no existing legislation in Hong Kong that could forbid the wrongful treatment on those being racially discriminated. It is also not easy for the

aggrieved ones to obtain compensations. Education on ethnic equality is lacking, ineffective and far below from the standard of a civilized, fair and equitable society. The cases set out below may reflect the real situations.

(B) Examples of racial discrimination committed by individuals and the business sector

Case 1

In November 1998, our social worker took 12 Nepalese teenagers to visit the Ocean Park. On the upper deck of a bus (route number 171), a middle-aged man moved from the back, scolding our youngsters very loudly, saying, ‘Damn Indians! How dirty you are! You spread bad odor to the whole bus. How can people sit here!’ Then the man descended to the lower deck immediately. The journey continued. The teenagers could not understand Cantonese and asked the social worker what had been said. After listening to the explanations, they said that they had always paid attention to their personal cleanliness but were always regarded as dirty and smelly. They thought this was due to their darker skin color. This example demonstrates that Hong Kong people are having an unreasonable discrimination against people of darker skin color. Any one on the street may insult and hurt the feeling of another person at his own wish but bears no responsibility on one’s action.

Case 2

In August 1999, our social worker took 13 South Asian young people to Pui O for camping. Our youngsters sang and played guitars, but the noises were not too loud and it was at the time of 9:00pm. Within the same campsite, another group of Chinese youngsters was playing loudly. Some Chinese people at the near-by campsites scolded our young people in foul language, saying, ‘Damn Indians, go back to your own country.’ However, the Chinese young people were not treated the same. The aggrieved South Asian youngsters expressed their discontent to our social worker on such discriminative act. However, they have no alternatives. This was not their first encounter of such unreasonable treatment. They had Hong Kong identity cards, parents were also Hong Kong citizens working hard everyday to earn a living and yet they were treated like beggars. This demonstrates clearly that racial discrimination is firm in the hearts of Hong Kong citizens. When the ethnic minorities were racially discriminated, insulted and hurt in the self-esteem, there is no proper channel to complain. Justice does not exist.

Case 3

In April 2001, our social worker accompanied 4 Nepalese young ladies entering a boutique. The shopkeepers followed the Nepalese girls without a welcoming manner. They even pointed at the girls and talked among themselves in Cantonese. Eventually, a shopkeeper said to the girls in Cantonese, ‘Are you really buying? Don’t touch or else you’ll make the clothes dirty!’

The 4 girls told the social worker they had had such experience before. The shopkeepers were often doubtful on their financial capability and always thought their dark skin was so filthy that the clothes would be made dirty. This seriously hurt their self-image. Therefore, they always avoided the insults by not going into the shops managed by Chinese. In fact, laws of Hong Kong do not forbid acts of discrimination by individuals, private parties and the business sector on groups of people with darker skin color.

Case 4

In September 1999, 6 Nepalese teenagers (11 to 15 years old), whom our social worker knew well, escaped from the rain by standing outside a TV game centre at Jordan. The youngsters looked at the new game machine through the glass door. The lady shop owner, holding a steel stick, tried to drive the youngsters away. The teenagers who could not speak Cantonese fluently attempted to argue with the lady. The lady beat one of the youngsters with the stick and reported to the police. Subsequently, 4 of those teenagers were arrested by the police at a nearby park. It was alleged that a cue for playing the Chinese billiard game was found outside the TV game centre and those youngsters would be charged with the crime of possessing an attacking weapon. The interrogation was conducted for a number of days. The sergeant at the Yau Ma Tei Police Station advised the youngsters (who did not know Cantonese) to admit the crime and told the young people they would be released upon ‘SERGEANT’S WARNING’ which, in fact, is unlawful. The teenagers refused to admit the crime and were released eventually. The parents of those young people had to take leave to attend to the interrogation at the police station. They thought the sons had done something wrong. This incident seriously affected the parent-child relationship of these teenagers. Subsequently, our social worker asked the lady shop owner the reason for reporting to the police. She said she did not like the ‘nasty Indians’ staying outside her shop and did not welcome them playing in the centre too. This case demonstrates again the racial discrimination acts committed by Hong Kong citizens. The ethnic minorities are discriminated against and suppressed due to the operation of a sub-standard ‘free market’ system and the support given by law enforcement officers of inferior quality. Such kind of irresponsible acts have seriously disturbed the normal daily lives of the ethnic minorities.

(C) Examples of racial discrimination committed by public services organizations

(a) Examples in the social services sector

Case 5

According to our experience, racial discrimination does exist in the social services sector. In October 1998, our social worker led 12 young people (who were Indians, Pakistanis and Nepalese), studying in primary 3 and primary 4, into a children and youth centre at Yau/Tsim/Mong district to make applications for joining the centre. These young people

possessed Hong Kong identity cards and 8 of them could speak Cantonese. Our social worker had made an appointment with the children and youth centre one week beforehand. Yet, the staff at the children and youth centre informed us they only had the Chinese version of the application form. Our social worker had to assist the youth centre staff to translate the application form and explain the contents to the applicants. When a Nepalese young person pointed to toy set no. 2 (the number for a set of marble chess) and said to a youth centre staff that he wanted 'number two' (in English), the responsible officer replied in Cantonese, 'You should not borrow if you do not know Chinese. I do not speak English.' Although the Nepalese young person could comprehend what was said to him, he was unable to respond in Cantonese. This made the young one very embarrassed. He could not figure out if he could continue to use the other services of the children and youth centre. Subsequently, it was because a Chinese girl (primary 4) quarreled with a Nepalese boy (primary 3) at the children youth centre, the whole group of South Asian children were driven out from the centre. It was also made clear to them they would not be allowed to utilize any facility or service in the centre any more. The centre-in-charge of that children and youth centre telephoned our social worker, requested us in a stern manner not to allow those young people to visit that youth centre again. The officer-in-charge clarified that their clients were 'local people' (meaning Chinese citizens). She said that she had to be accountable to his clients and therefore the South Asians were not welcome.

Case 6

In June 2001, our social worker came into contact with a group of Nepalese homeless people in a government carpark at Yau Ma Tei district. Each one of them wished to find a job and accommodation. However, they were not familiar with the social services offered in Hong Kong. Our social worker rendered our services. It was thought it should not be too difficult to find accommodation for them because there were seven providing homes/hostels for the homeless people run by different non-governmental organizations. Our social worker then contacted all of these boarding homes located within and outside Yau Ma Tei district. Surprisingly, most of the boarding homes refused to take these homeless people. This was not because there was no vacancy. It was because these people were not 'local people' (that means Chinese people). Another reason was that the staff of the homes (wardens, cleaning workers etc) do not speak English. Some of the staff members of the boarding homes even regarded these people dirty and lazy. Moreover, these were drug addicts and therefore not worth helping. Our social worker explained that these people became homeless not solely due to addiction to drugs. They were jobless and thus could not afford to pay rent. In addition, they did not have relatives in Hong Kong. In fact, there were not enough school places for ethnic minorities. Other local schools were reluctant to accept them too. Due to the lack of formal education and training given by vocational training agencies, they encountered greater difficulties in finding jobs than the Chinese. Our social worker asked the officer-in-charge of one of the homes, 'Some of the Chinese homeless had the same problems, why do you accept them?' The officer admitted that this is a fact but any way they were reluctant to accept these non-Chinese. Eventually, only one boarding home on Hong Kong

Island was willing to accept them. The Social Welfare Department expressed their inability to help as well. Up till now, those people are still homeless.

(b) Examples from the police sector

Case 7

Our South Asian male clients are always stopped and searched by policemen in a very rude manner. The reasons given by the policemen are often ridiculous--- various kinds of ‘possible intention of committing a crime’. A sixteen-year old Nepalese member of Unison Hong Kong was stopped and searched by the police three times within a month in October 1999. He thought this was due to his race and darker skin color. Every time when he was taken to the police station, he was asked to take off all his clothes. Four to five policemen would stand around him, looking and laughing, and he felt being sexually harassed. Every time no charge could be made on him and he was eventually released. The whole process wastes a lot of time for both the police and the person being searched. Friends of this Nepalese young man often have similar experiences. In fact, our social workers had served Chinese youngsters before, but these people never had the same experience as quoted above although they dressed in a manner that would catch the attention of the policemen more easily as compared to our South Asian clients.

Case 8

Our social workers have been doing outreach social work for a number of years. They have vast experiences in accompanying Chinese clients to the police stations for inquiry, interrogation or completing some required procedures. On comparison, our social workers find that clients of the ethnic minority group would have to spend more time in the police station than the Chinese clients, no matter if they are being the suspects or the complainants. Officers in the police stations often do not respond to the inquiries of our clients or their parents of the ethnic minorities, but simply indicate these people (by hand) to continue waiting.

In May 2000, 3 South Asian youngsters were beaten up at Kwun Tong and they reported to the police. They were asked by the policemen at the police station to wait and they waited for five hours. During the five hours, we asked many times the reason for waiting. The officers just replied, ‘If the police officers ask you to wait, you just wait. Don’t ask.’ Eventually, the officer responsible for our case left and the young men were told to come again the next day. Our clients had no idea what was happening.

It is said in the public relations materials that the front-line policemen are able to speak English. However, this is contrary to many of our observations. A lot of front-line police officers are not able to communicate orally in English and are unwilling to use English in the paper work. Whenever we are requested by our South Asian clients or their parents to help in the police stations, we can always witness such situation. No matter if our clients are the plaintiffs or defendants, they

are always asked to wait without given any reason. The police officers either ignore them or use sub-standard English to ask them to 'WAIT'.

Case 9

One of our social workers always has to help the South Asian clients in the police stations at Yau Ma Tei, Tsim Sha Tsui and Yuen Long districts due to unreasonable arrests. After numerous visits, she became acquainted with some of the policemen in those stations. The officers admitted to her that it was difficult to identify the real suspect because people of the ethnic minorities 'all look the same'. It is therefore not unusual to have the wrong person arrested. One thing that makes our social worker feels aggrieved is that, for numerous times, the officers at the police station persuaded our clients (that were wrongly arrested), in front of their parents, to admit the crime in order to get the problem solved. In July 2000, a Nepalese young man, whom our social workers knew, was arrested, due to an alleged charge of damaging the brooms in the Kowloon Park. The witness said the damage was done by a group of Pakistanis. However, the Nepalese young man was caught by the witness who insisted that the Nepalese was present and therefore should have participated in the damage as well. When the policemen arrived, they said to the Nepalese man, 'Damn Indian! This is the place of Chinese people. There is no room for you to show off.' The Nepalese was arrested. The police did not conduct further investigations or collect proper evidence from the damaged broom. Yet the responsible police officer just told the Nepalese to admit the charge and then he would be released upon getting the Superintendent's Discretionary Scheme. Otherwise, more severe charges would be placed upon him. This young man was forced to listen and had a bad mark left on his record. This unfair arrest was made just because of his race and skin colour.

(c) Examples in the education circle

Case 10

Under various occasions, our organization has already expressed our view that there are insufficient school places for South Asian/South-East Asian school children and that the choices open to them are very limited. Apart from a few schools, most of the government schools and subsidized schools are unwilling to accept these children. The reasons given by the schools and district offices of the Education Department (ED) are numerous. Although the reasons look very sound, they are never given to the Chinese school children. However, these are the reasons that make children of the ethnic minority group unable to find school places. Some children of the ethnic minorities have to travel a long way to schools and their waiting time to obtain school places is much longer than the Chinese children are. Our social worker has frequent meetings with officers of the ED, attempting to solve the school place problem. It is noted that these officers have racial discrimination on children of the above-mentioned ethnic minority group. At a meeting with a senior officer of the ED, our social worker suggested the ED to issue a circular to all schools, encouraging them to accept children of the South Asians/South-East Asians. That senior officer

commented that children of such ethnic groups were especially stupid and he wondered why our organization was so eager to assist them. This is clearly racial discrimination. At one time, a middle-ranked ED officer told our social worker that the resources spent on education was not adequate and therefore services should be given to the Chinese people first because they were the 'majority'. These two examples clearly demonstrate that some government officers responsible for education are discriminating against non-Chinese children. Unlike the Chinese, children of the ethnic minorities have long been unable to study in schools close to their living area. This is unfair treatment to the ethnic minorities.

Case 11

A twelve-and-a-half-year old Indian boy with primary four educational level came to Hong Kong in 1997. He waited two years, but in vain, for a place in a school at Lee Cheng Uk. In 1999, when the boy reached 14 ½, he came to our social worker for assistance. Despite our effort no place could be found for the boy in the schools that normally accepted children from South Asia/South-East Asia. Our social worker went to the District Office of the Education Department (ED) for assistance. What happened was that the ED and its District Office shifted the responsibility to each other, gave the boy twice the same school list (which our social worker had contacted and was confirmed that there was no suitable place for the boy) and asked him to leave. Eventually, our social worker argued with the District Office of the ED and it was then willing to handle the boy's case. More than half a year was past and there was no news. When the boy reached 15, the District Office informed us that there would be no need to render further assistance to the boy because he had already reached 15, which is the upper limit for compulsory education. They had no more responsibility to follow up the case. This reflects that under the existing procedures, the ED is unable to render timely and appropriate assistance to school children of the ethnic minorities. This Department is also unable to change the attitude of most of the government and subsidized schools in the admission of children of the ethnic minorities. The worse thing is that there is no indication that the ED has ever made an effort to solve the problem, but this department simply let their responsibility die away as time goes by. This shows that in our society, education need for children of the ethnic minority group is intentionally ignored. Their right to education is entirely out of protection.

Case 12

In August 2001, parents of three children of the ethnic minority group received separate letters from the Education Department (ED). Two letters had the same contents—pointing out that the two children concerned had learning difficulties as found by their primary schools which are the ones that accept ethnic minority children. The ED referred the children to a certain learning support section within the ED. Another letter was warning the parents of a thirteen-year old school child who had quitted school. The parents were requested to report the situation and were informed of the possible breaching of the relevant rules on education. These three letters, which had important implications on the future of the three children concerned, were all written in

Chinese. The parents could not understand the contents and came to Unison for assistance. Another case was on a group of 30 Form 5 students from the schools that accept ethnic minorities. They received a guidebook on further education issued by the ED, but found that the contents were all written in Chinese although the cover was bilingual. At a time when the school kids were desperate for help, they only found themselves being ignored in a ridiculous way. If they are lucky, they can find people that can read Chinese (like friends, social workers etc) to explain to them the contents of the guide book. Otherwise, some important information that may have large impact on their future or daily lives would be missed.

In fact, the minimum thing that the ED can do is to issue letters and information to the non-Chinese in both Chinese and English. The above cases clearly show that officers of the ED are irresponsible. They never consider that there are parents and students who do not understand Chinese. Moreover, these ED officers do not need to be responsible for the effectiveness of their work. In fact, they are unable to make an assessment on the effectiveness. This is because parents and students of the ethnic minorities would have to bear all the consequences --- breaching of the law if the letters from the ED become unanswered, not being able to find school places or assistance. These people do not know where to or how to complain. The irresponsible acts have created indirectly racial discrimination.

(d) Examples from other public services organizations

Similar to the Education Department, many public services organizations only issue the Chinese version of their pamphlets, causing much inconvenience to the ethnic minorities who need the services. In fact, it would be more likely for the ethnic minorities to breach the law due to ignorance. Take for examples, application forms for public housing and welfare assistance, notices to patients issued by the Health Department, Jockey Club clinics and hospitals are all in Chinese. The common problems are the lacking of an English version, the omission of an English translation or the reluctance of the responsible officers in switching to the English mode in the computers. This shows that a large part of the public services organizations do not give consideration to the fact that Hong Kong is made up by people of different ethnic groups. Not every one knows Chinese. The existing services have caused inconvenience to those who do not know Chinese and this indirectly creates racial discrimination. Some ethnic groups are also deprived of the right to the use of public services too.

(D) Deficiencies of the existing system

(a) Private entities: lacking of a solution under the law

According to the existing legal system, if a citizen is discriminated racially by another person or a private entity, he/she is not protected under the law. People of the ethnic minorities can be excluded, expelled, insulted, rejected from the utilization of services by any shop owner,

administrative staff in the schools, officers of the social services organizations, restaurant waiters or even any one on the street due to racial discrimination or operational efficiency. The aggrieved ones can only take it and there is nowhere to complain.

Being the minority is very unfavorable to the ethnic minorities in Hong Kong. Since demand is driving the free market system, needs of the ethnic minorities can never be met. Shops, schools and social services do not find sufficient demand to push for improvement. Resource allocation is therefore also unfavorable to these people. Without an enacted legislation, the unfair situation cannot be changed only by means of public education.

(b) Government and public organizations: Expecting the aggrieved party to sue under the Human Rights Legislation and the Courts is not practical

Under the present legislation, if a citizen is racially discriminated by a government department, he/she can sue the Government under the Human Rights Legislation. However, it is absolutely not practical to expect a person in the ethnic minority group, with financial difficulties, low educational level and ignorance of the legal aid services, to sue the Government in person under the Human Rights Ordinance, with a view to fighting for something which is considered to be minor in daily lives. And yet, when added together all the numerous unfair small events, severe restrictions are imposed on the daily lives of people of the ethnic minority group. Arrangements that are considered to be fair, open and convenient to the Chinese, on the other hand, adversely impacting the lives of the minorities. The above phenomena are reflections of a backward society and should not be present in an international and multi-ethnic city like Hong Kong. Moreover, if the person being discriminated is a government employee, he/she would be reluctant to fight for fairness for fear of losing his/her job. Reluctance to taking action may also be because the people under discrimination are only a small group. Unfair treatments are 'fair' in the eyes of the majority.

To the officers-in-charge of the government or public organizations, there is no cause for change. Inconvenience to a small group does not affect the majority. In the absence of a proper legislation, actions like issuing Chinese letters to citizens of the minority group who do not know Chinese, distributing Chinese version of the Guide Book for Form 5 students to those do not read Chinese, and etc. would never be changed.

(c) Existing authorized organizations are unable to handle complaints on racial discrimination

In fact, complaints on racial discrimination can be handled by organizations, like the Equal Opportunities Commission (EOC), that is considered to be independent, widely accepted and having a good public image. Then, the aggrieved ones can have a place to turn to and cases be further investigated and followed up. With the enactment of a proper legislation, an organization similar to the EOC can be vested with the right to accept complaints on racial discrimination.

Before the case is brought to court, complainants and defendants may present their own arguments and the case be handled properly. At present, there is no legal basis for the proposed arrangement and a proper organization that can handle racial discrimination does not exist.

At present, the EOC is unable to handle complaints on racial discrimination. This is because there is no legal basis to do so under the law. EOC is operated under three existing anti-discrimination ordinances, but racial discrimination is not one of them. Therefore, without the enactment of a proper legislation on racial discrimination, EOC (or a similar organization) is unable to handle complaints on racial discrimination committed by individuals and private entities. The aggrieved ones have nowhere to turn to and the problem can never be solved in a legal manner. As for the government officials, they are more unlikely to sue the Government to protect their own jobs. In the absence of a proper system for handling complaints on racial discrimination, ethnic minorities, belonging to the minority group, can only keep their mouths shut and take whatever discrimination that is made upon them.

(E) Other advantages of enacting a legislation against racial discrimination

(a) Conveying a positive message towards the whole world

Hong Kong is a metropolis and an important international financial centre. It is essential to convey to the whole world that different ethnic groups can live here peacefully to develop this great city. Hong Kong is far behind from other great cities in the enactment of legislation against racial discrimination and therefore should speed up in this area. Since Hong Kong has already committed to the International Convention on the Elimination of All Forms of Racial Discrimination in August 2001 to combat racial discrimination, we should enact a proper legislation to prevent such behaviour in order to fulfill our promise. Such kind of legislation is similar to building up the infrastructure of Hong Kong society. This is similar to the positive image built up by the Independent Commission Against Corruption---we have shown that Hong Kong is a civilized city. Building up a fair society is beneficial to the development of businesses and tourism in Hong Kong and may also attract high caliber people to work here, thus speeding up the development. Therefore, from both the positive and negative (to combat discrimination) points of view, there are ample reasons to enact a proper legislation.

(b) Attracting and retaining good quality people

Hong Kong is lacking natural resources. However, its inflow and efficient use of information as well as human and financial resources have contributed to the success of Hong Kong. The ethnic minorities are weak in Chinese, but in general they speak fluent English. They have relatives in other countries and have close religious and cultural ties with other places too. They are therefore able to bring for Hong Kong new international connections, financial and cultural resources. Their various kinds of capabilities can make new contributions in the cultural

and economic development of Hong Kong and strengthen the image of this metropolis. In fact, in the past decades, the ethnic minorities have really made a lot of contributions to Hong Kong. There are Nepalese soldiers, Indian and Pakistani policemen and guards, delicious South Asian food, beautiful artwork, Philippine musicians and domestic workers. In the long run, the ethnic minorities will continue to make contributions to Hong Kong. Racial discrimination has already caused unfairness to the daily lives of the ethnic minorities. Allowing such discrimination to persist is not only immoral, but is also despising the special capabilities of these people and therefore rejecting good quality people as well. The educational level of people in Hong Kong is higher than many places. Enactment of legislation on racial discrimination will not therefore bring about large amount of court cases. It will also convey a positive message that Hong Kong welcomes people of all races and that it is very concerned about the peaceful settlement of them here.

(c) Conveying clearly to the public a message of ethnic equality

Enactment of legislation has long been a good tool for public education. A good reference is drawn from the successful experiences in the enactment of the three existing anti-discrimination ordinances. In fact, these three ordinances have not brought up large amount of court cases that cannot be handled. From a few court cases, damaging behavior can be immediately stopped. The injured has a proper channel to turn to or may even obtain compensations. It is not only effective in teaching the stubborn ones but is also good in educating the public the proper behaviors in a fair and civilized society. Enactment of legislation can be processed in a promotional manner – working together with public education. In this way, we can achieve the goal with half of the effort. Effectiveness in public education can therefore be highly raised.

(d) Creating a forum for solving the conflicts in the cases of racial discrimination

From the experiences gained by the three anti-discrimination ordinances, the Equal Opportunities Commission would conduct investigations and make an attempt to arrive at a settlement between the plaintiff and defendant before the case is brought to court. With the comfort that the law is in operation, both sides are more willing to find an acceptable solution. Therefore only a few cases have to be taken to court. Moreover, under the common law, these court cases are useful for drawing references and for effective public education.

(F) Response to some of the comments contained in the Annex

Point A10 (Legislation would be ‘anti-business’, particularly in the current economic climate when businesses are already facing serious difficulties.)

Response: Enactment of an ordinance on the prevention of racial discrimination would help establish a more open, fair and international environment, and this is advantageous to the

conduction of businesses. Ethnic minorities will then be treated fairly in the provision of basic education, social services, vocational training, medical services as well as product and employment information. This is beneficial to business development due to the contributions given by customers and employees with various capabilities, language abilities and international connections.

Points A11 and A12 (Legislation would entail additional costs for companies.) (Legislation could reduce job opportunities for the ethnic minorities, as employers might be reluctant to employ them for fear of encountering litigation at a later stage.)

Response: Anti-discrimination legislation should have no impact on the normal operation of a company. Employee compensation is determined by demand and supply in the open market and the employment contract. A larger supply of labour would reduce, but not increase, the costs of operations. A fair employment system would bring us high quality staff and faithful employees. It would also help prevent the loss of good people. Both the visible and invisible losses to the employers would therefore be reduced. In fact, the existing three anti-discrimination ordinances have not brought up many court cases and the legal system of Hong Kong is not just standing on the side of employees.

Point A13 (Legislation would create unnecessary disputes between private parties and give rise to vexatious litigation.)

Response: There is no indication that the law enforcement and judicial departments of Hong Kong would take cases to court and waste a lot of time and public money even though it is absolutely clear that there is insufficient evidence. Similarly, individuals and private enterprises in Hong Kong also would not waste invaluable time and money on unnecessary court cases. The case would only be brought to court if one side of the arguing parties find himself/herself being extremely unfairly treated and an acceptable solution cannot be found. If there were no legal system in operation to resolve an extremely unfair situation, it would easily be resulted in emotional actions, which is very undesirable. It would be very abnormal in a society if the person being discriminated against (being insulted or with his/her rights being deprived of) always has to set the affair at rest to avoid an additional trouble.

Point A14 (Legislation could engender resentment within the community.)

Response: Animosity would not be spread out in a society with slow flow of news and information even if people being discriminated and injured always have to remain silent because the general public are not aware of what have happened. However, Hong Kong is a society with superior mass media. Its citizens (including the minorities) would never remain silent if being discriminated against. Whenever there are unfair matters, people with conscience would never sit

and do nothing, but would raise discussions and comments. When widely reported, unfair matters would only damage the reputation and image of the government and citizens of Hong Kong. It would sound much better if unfairness is properly dealt with and resentment is to be reduced by enactment of a good legislation.

Point A15 (Excessive regulation of businesses is contrary to free market principles.)

Response: If enactment of a legislation against racial discrimination would entail in great adjustments by the businesses in Hong Kong and affect the normal operations of the open market system, countries which have already enacted a similar legislation would wrongly think that the success of Hong Kong's businesses and free market system is closely related to the existence of racial discrimination. This is contradictory to the actual fact. The success of Hong Kong's enterprises is due to our pursuit of fairness and open attitude. Moreover, we welcome and work with people from all over the world and we have a set of reasonable laws and a fair judiciary system.

Point A16 (Existing legislation provides sufficient protection for employees of all races.)

Response: It has been pointed out in the cases quoted above that, under the existing system, rights of the children and youngsters of the ethnic minorities are not protected in the obtaining of basic education, vocational training, social services, proper information and consumer services and that these people are not fairly treated by the law enforcement departments. Therefore, if these people are brought up facing numerous stumbling blocks, how can they be able to compete successfully in the society? Some of the ethnic minority youngsters become homeless due to unemployment and lack of support. They even do not know how to apply for Comprehensive Social Security Assistance. Even if they are able to find half a day's work, their pay is lower than the Chinese counterpart. People who think the existing system is functioning well to protect the rights of the employees belonging to the ethnic minority group are too optimistic. It is rather remote for many adults and youngsters in the ethnic minority group to find employment or jobs of reasonable pay. This situation is not only due to slowdown in the economy, it is due primarily to racial discrimination. Their development is severely restricted in all aspects. Therefore it is imperative to enact a proper legislation against racial discrimination.

Point B4 (Specific attention must be given to small and medium enterprises: possibly an exemption for companies employing less than a prescribed number of persons.)

Response: The principle of ethnic equality should not change with the size of the enterprise. Terms of employment should be determined by market supply and demand and details under the contract. The government should give a hand if small and medium enterprises encounter difficulties in the implementation of the law enacted for the prevention of racial discrimination, for

example in providing technical support and allowing tax reduction. The government should never permit the smaller enterprises to find reasons, on the ground of racial differences, to impose unfair arrangements.

We hope the views and cases we have presented are useful for your reference. It is also our sincere wish to have an earlier enactment of a law against racial discrimination. This is to ensure a peaceful society, of ethnic equality, is to be built up. For further information, please contact the undersigned.

Yours sincerely,

Wong Wai Fun, Fermi
Director
Unison Hong Kong

Encl. Pamphlet of Unison Hong Kong ^[Note 1]

[Note 1 : The pamphlet is not enclosed for LegCo Members.]