

URGENT

**Joint submission from
Hong Kong Human Rights Monitor and Hong Kong Unison
to the LegCo Bills Committee on Race Discrimination Bill
for its meeting to be held on 11 June 2008**

The General Duty & Statutory Equality Plan

The Race Discrimination Bill (RDB) is poorly drafted and fails to provide sufficient protection for ethnic minorities against racial discrimination. It does not cover all Government functions and the proposed exemptions in relation to areas such as language, education and employment training, give rise to the concern that the Government is merely paying lip-service to its avowed commitment to eliminate Hong Kong of racial discrimination.

Against this background, a racial equality mandate according to which the Government has a statutory duty to eliminate racial discrimination and to promote racial equality and harmony even within Government (hereafter “the General Duty”) is indispensable. Such a system would not open any flood gate for litigation, a worry cited by the Government to deny making the Bill applicable to government functions.

To date, in this respect, the Government has only presented an ambiguous offer to “explore the compilation of some guidelines within the Government for the key Bureaux and Departments to follow in their formulation and implementation of their relevant policies and measures, focusing on the key services including medical, education, vocational training, employment and major community services.”

A promise to come up with guidelines was made by the Constitutional and Mainland Affairs Bureau to LegCo on 3 June 2008. There remains however uncertainty as to which governmental bodies will be covered, what obligations will be imposed on them and what the implementation arrangements will be in respect of resource allocation, personnel training and public participation.

To effectively protect Hong Kong’s ethnic minorities against racial discrimination, the Government should therefore implement a statutory Equality Plan. to discharge the General Duty.

The statutory Equality Plan for a governmental body should contain at least the following elements:

1. A list of the bodies' functions or policies (including proposed policies) assessed to be relevant to racial equality;
2. Arrangements for assessing and consulting on the likely impact of proposed policies on racial equality;
3. Arrangements for monitoring its policies for any adverse impact on racial equality;
4. Arrangements for publishing assessments, and consultation and monitoring results;
5. Arrangements for ensuring public access to information and the services provided;
6. Arrangements for staff training on racial equality;
7. A plan of action to address racial problems identified in the Equality Plan, with the proper deployment of resources;
8. Periodic reviews to update and improve the Equality Plan.

In addition, governmental bodies and public authorities which impact upon the livelihoods of ethnic minorities, including those pertaining to education and training, medicine and health, and the provision of other important services; should be bound by the statutory duty. These governmental bodies and public authorities should be identified and publicised.

We therefore urge the Government to amend the RDB to explicitly include the General Duty which should be discharged through an effective Equality Plan. This would demonstrate a genuine commitment to eliminating racial discrimination and promoting equal opportunity for ethnic minorities, it would provide for a continuing system of self compliance and implementation.

To further enhance the effectiveness of the Equality Plan, we propose that the Equal Opportunities Commission be further empowered to oversee the implementation of Equality Plans independently.