

Hong Kong Against Race Discrimination (HARD)

Submission to Home Affairs Panel

Report on Hong Kong under the
International Convention on the Elimination of All Forms of Racial Discrimination

Lack of Legislative Protection

Hong Kong has no legislative protection and remedies available to individuals in respect of discrimination on the grounds of race. Legislation should be enacted in order to ensure full compliance with Article 26 of the International Covenant on Civil and Political Rights. The Human Rights Committee expressed concern that “no legislative remedies are available” in November 1999 in its Concluding Observation on Hong Kong.

HARD believes that the Hong Kong Special Administrative Region Government’s (the Government) reasons for not legislating are spurious.

Government Attitude

Ethnic minorities in Hong Kong face subtle and not so subtle discrimination in many areas, including employment, accommodation, education and in social relations. While the Government’s official policy is to eliminate racial discrimination, HARD believes that the policy is neither seriously nor effectively implemented. A reason is that there is a lack of commitment and understanding on the part of senior officers.

The Government’s general attitude can be discerned from a Question & Answer session at the Legislative Council on the 22 July 1998. The question concerned some operators of bars in Hong Kong who charged non-white customers an entry charge.

The Secretary for Home Affairs replied that he sent the Government’s “Equal Opportunities: Race and the Code of Practice Against Race Discrimination in Employment on the Ground of Race” to the bar operators in order to draw their attention to the matter. It was then pointed out to the Secretary that the problem was not with employment but with how customers of different racial origins were perceived. The Secretary attempted to justify his action by saying:

“...I wish to explain why the Code of Practice does have a direct bearing on the matter ... Racial discrimination may come in different forms. It may be in words or action ... Now there are a few bars which reportedly charge customers of certain races a higher fee ... This is of course racial discrimination and it is something we do not approve of. But in the many forms of racial discrimination, we think the employment issue is important ... Although the Code of Practice is on employment matters, it also clearly conveys the message of equal opportunities, and that one should not discriminate against people of other races.”

On the same occasion, the Secretary was also asked about why the Government would not legislate to prohibit race discrimination. He responded that:

“... Our decision that continuous effort in civic education and self regulation are preferable to coercion. In the promotion of racial equality we also took into account the public consultation held earlier last year which clearly indicated that legislation in this area would not enjoy a significant level of public acceptance or public support.”

On being pressed about the nature of the public consultation carried out in 1997 that it did not specifically survey the ethnic minorities, the Secretary was asked whether he would consider conducting another survey to find out the experience of those who are being discriminated against. He said:

“I am not going to carry out this survey, because if we plan to legislate, we must have the support of the majority of the people of Hong Kong.”

As to how the Secretary saw the effectiveness of legislation, he said:

“... even if there is legislation, the problem of racial discrimination will not necessarily disappear. Let us look at many countries in the world ... the problem of racial discrimination still exists even with anti-discrimination legislation in place ... We have the Bill of Rights Ordinance which prohibits government and public bodies from taking any racially discriminatory measures.”

Policy Contradiction

In 1995, Hong Kong passed laws to prohibit sex and disability discrimination. In 1997, legislation was also passed to prohibit discrimination on the ground of family responsibility. There are still three significant areas of equal opportunity policy that the Government refuses to legislate. These are discrimination on the grounds of age, race and sexual orientation.

In the area of age, there is widespread public support for this and yet, the Government is unwilling to legislate as there is a strong employers' lobby against it. On the ground of race, the Government claims that there is no strong public support. On the ground of sexual orientation, the Government finds it too controversial because religious groups are against legislation.

It can be seen that the Government's own stance is confused and not based on principle. As it is right to prohibit discrimination on the grounds of sex, family responsibility and disability, and to provide redress mechanisms, it should be just as correct to do so in the other areas, including race. The “lack of public support” argument is flawed.

The Government is also claiming that it is already good enough for Hong Kong that the Government itself is bound by the Bill of Rights Ordinance that it itself and public bodies are not to adopt any racially discriminatory measures. This is plainly insufficient.

Recommendations

HARD recommends that the Government legislate to prohibit race discrimination forthwith.

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