

**SUBMISSION TO THE LEGISLATIVE COUNCIL PANEL ON HOME AFFAIRS**

Submitted by: The Indian Resources Group (IRG)  
Hong Kong Against Racial Discrimination (HARD)

Purpose of the submission

To understand the position of reporting under the various human rights reports by the Hong Kong Special Administrative Region Government (HKSARG) and to highlight relevant issues in relation to racism in Hong Kong.

**THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD)**

The HKSARG is bound under this convention to prohibit racial discrimination in Hong Kong. We would request panel members to seek clarification from the Government as to how racism can be prohibited without legislation?

The next Committee on the Elimination of Racial Discrimination (CERD) report from China is due in January 2003. In CERD's previous report on HK in August 2001, the HKSARG was urged to review the existing situation in HK and introduce legislation to outlaw racism.

Most recently, Mr. Ion Diaconu & Mr Patrick Thornberry from CERD visited Hong Kong and once again pressed the HKSAR to introduce legislation to outlaw racism.

By ignoring her international obligations, the HKSARG is causing unnecessary bad press for Hong Kong in the international arena.

**THE INTERNATIONAL CONVENTION OF ECONOMIC SOCIAL & CULTURAL RIGHTS (ICESCR)**

As with the CERD committee, the Committee on Economic, Social & Cultural Rights (CESCR) has condemned the HKSARG for failing to fulfil its international obligations. The CESCR chairperson, Virginia Dandan, visited HK in September 2002 and stated that HK is in breach of its CESCR obligations by failing to outlaw racism.

We would like to bring the following key points to the attention of the Home Affairs Panel

- 1) The HKSARG most recent survey of the business community in HK revealed strong support for legislation from a sector of Hong Kong society that has historically been conservative about the introduction of any form of equal opportunities legislation.
- 2) The NGO sector has consistently pressed the HKSARG to introduce legislation to outlaw racism.
- 3) There seems to be little objection towards the Government legislating within HK. Coupled with the fact that HK has been defined as being in breach of her international obligations, legislation to outlaw racism can only be seen as positive for Hong Kong.

- 4) The HKSARG has previously commented on the need to ensure a majority of society is in favour of legislating before proceeding. This argument now seems to have been turned onto its head, with the HKSARG now giving greater weight to a small minority who have reservations about legislation.
- 5) Although the establishment of the Race Relations Unit has been a positive step, this body has no enforcement powers or independence. In contrast the Equal Opportunities Commission (EOC) can provide legal recourse and substantive assistance to those who have been genuinely discriminated against.
- 6) Demographics trends in HK have shown that the population of ethnic minority residents is growing. The Government must accept that this change is a reality respond to the needs of the minority communities'. Instances of racism faced by such people encompass all aspects of their daily lives, including:
  - a) Problems with securing places in school.
  - b) Being discriminated against in the work place.
  - c) Failing to secure residential tenancy simply because of their racial background.
  - d) Provision of medical care in Government hospitals.
  - e) General provision of goods and services.

Specifically is regards to a) above, such discrimination constitutes a violation of the right to education generally, as well as the right to non-discrimination in education protected by Article 5 if the ICERD.

- 7) Despite the protections against discrimination committed by public bodies provided by Articles 1 and 22 of the HK Bill of Rights Ordinance, victims find it extremely difficult to bring a case against the HK Government under this ordinance. We suggest that as an interim measure, the HK Government expand the EOC's terms of reference to allow it to enforce the equality provisions in the Bill of Rights Ordinance.

## CONCLUSION

Both the IRG and HARD request the Home Affairs Panel to impress upon the Government to fulfil its international obligations as well as its social obligations in respect of protecting the rights of HK's ethnic minority residents. Without legislation, there is little chance of being able to create a multicultural society that respects and values the differences of people from varying backgrounds. Legislation is the first step in what should be a long term strategy to embrace multiculturalism.

Thank you.

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December 11, 2002.