



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/304/Add.9
28 March 1996

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the
Elimination of Racial Discrimination

United Kingdom of Great Britain and Northern Ireland

1. The Committee considered the thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/263/Add.7 and CERD/C/263/Add.7, Part II) at its 1139th, 1140th and 1141st meetings (see CERD/C/SR.1139-1141), held on 4 and 5 March 1996, and, at its 1154th meeting, held on 14 March 1996, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland and one of its dependent territories (Hong Kong). It notes with satisfaction the State Party's timely submission of the report, as well as the detailed answers provided to the questions posed at the present session and to the issues raised by the Committee in its concluding observations in connection with the twelfth periodic report. The Committee recognizes that since the United Kingdom became a party to the Convention many legislative and other measures have been taken to implement the provisions of the Convention.

3. The Committee notes with regret that Part II of the report deals with the implementation of the Convention in only one dependent territory (Hong Kong) and that no information has been submitted with respect to the other dependent territories. It none the less expresses appreciation for the Government's engagement in a frank and constructive dialogue with the Committee, including on the legal issues about which the Government is, much to the regret of the Committee, in disagreement with the Committee.

4. The Committee expresses appreciation for the specific information received from non-governmental organizations based in the State Party, which helped it to clarify the situation and contributed to the quality of the dialogue.

5. It is noted that the State Party does not envisage making the declaration provided for in article 14 of the Convention, and that a number of members of the Committee requested the State Party to reconsider its position on this matter.

B. Factors and difficulties impeding the implementation of the Convention

6. The Committee notes that a large number of manifestations of racism and racially motivated attacks and incidents directed against members of ethnic minorities continue to occur in the territory of the State Party.

C. Positive factors

7. The legislative proposal to allow the Commission on Racial Equality to accept legally binding undertakings and the introduction of new legislative provisions to address the issue of persistent harassment are welcome developments. The special effort made by the Government to increase the representation of ethnic minorities in the police force is also noted with satisfaction, as is the attention being paid in recent years to collecting data on and investigating racially motivated crimes, deaths in detention and complaints of police brutality.

8. The new grants for education support and training, which are intended to increase the English skills of students from ethnic minority groups, are viewed as a constructive way to raise the standards of academic achievement of these students.

9. The commitment to enact a race relations law for Northern Ireland, although much belated, is also welcome.

10. With respect to Hong Kong, the study on racial discrimination proposed to begin by the end of the present year is viewed as a constructive means of determining the extent of problems in the area of racial discrimination and reviewing all laws that may in a discriminatory manner confer exclusive benefits on members of a particular race. Where discrimination is found to exist, the study could serve as an important basis for the development of solutions.

D. Principal subjects of concern

11. Note is taken of the fact that the 1976 Race Relations Act, by which many of the provisions of the Convention are given effect in domestic law, is subordinate to a wide range of rules and may be superseded by new rules or laws. The legal framework prohibiting racial discrimination is further weakened by the non-incorporation of the Convention in domestic legislation, the absence of a bill of rights espousing the principle of equality before the law and non-discrimination, and the lack of recourse of individuals to petition an international body such as the Committee. In addition, concern is expressed that the laws relevant to the implementation of the Convention do not appear to be uniformly applied throughout the territory of the United Kingdom; specifically, the Race Relations Act does not extend to Northern Ireland and some provisions of the Criminal Justice Act do not apply to Scotland.

12. Special concern is expressed over the issue of religious discrimination, in connection with anti-Muslim sentiment. Discrimination against Muslims may be closely related to questions of race and ethnicity, but no legislation is in place to deal effectively with this type of discrimination.

13. Concern is expressed over the interpretation of article 4 as presented in the State Party's interpretative statement regarding this article and reaffirmed in the thirteenth periodic report. Such an interpretation is not only in conflict with the established view of the Committee, as elaborated in its General Recommendation No. XV (42), but also amounts to a negation of the State Party's obligation under article 4 (b) of the Convention to outlaw and prohibit organizations which promote and incite racial discrimination.

14. In connection with article 5 of the Convention, it is noted with serious concern that among the victims of death in custody are a disproportionate number of members of minority groups, that police brutality appears to affect members of minority groups disproportionately, that allegations of police brutality and harassment are reportedly not vigorously investigated and perpetrators, once guilt is established, not appropriately punished. Persons belonging to ethnic minority groups are under-represented in political and public life, as reflected in their representation among the voting public, the police and armed forces and holders of public office. Deep concern is expressed about reports that they suffer significantly higher levels of unemployment relative to the rest of the population and that disproportionate numbers of black children are being excluded from schools.

15. Special concern is also expressed for the Irish Traveller community, whose situation affects their right to public health care and social services under article 5 (e). It is noted that the policy of designating land for the use of Travellers has contributed to their lower standard of living and has curtailed their freedom of movement by limiting the places which they might inhabit.

16. Serious concern is expressed at the absence of comprehensive race relations legislation in Northern Ireland. Equally, concern is expressed at the lack of positive efforts to bridge the cultural gaps in Northern Ireland

between mainstream society and minority groups, particularly the Chinese and Irish Traveller communities. This has resulted in a disturbing reluctance by many members of these groups to make use of health and other social services.

17. Concerning the treatment of foreigners, serious concern is expressed that the proposed Asylum and Immigration Bill, published on 30 November 1995, would alter the status of many persons living in the United Kingdom in an adverse and discriminatory manner. This bill, if enacted, would, inter alia, prohibit employers from employing persons who are in the process of appealing a decision which rejected their petition to remain. It would also deny a number of social services to persons who have been granted permission to remain in the United Kingdom, including asylum-seekers, and others who have been granted permanent leave to stay but have not been naturalized. It is a matter of deep concern that most of the affected persons would be persons belonging to ethnic minorities.

18. With respect to Hong Kong, concern is expressed at the failure to include in the 1991 Population Census questions which would help determine the ethnic and racial composition of the population. The identification of minority groups and subsequent analysis of their political, economic and social status is a precondition for determining the difficulties that minority groups may be facing and whether and how any such difficulties may be due to discrimination.

19. It is noted with concern that the adoption of the Bill of Rights Ordinance, while a welcome measure, does not protect persons in Hong Kong from racial discrimination to which they may be subjected by private persons, groups or organizations, as provided for in article 2, paragraph 1 (d) of the Convention.

20. The Government's statement that South Asian residents of Hong Kong are granted some form of British nationality, whether that of a British National Overseas (BNO) or a British Overseas Citizen (BOC), so that no resident of Hong Kong would be left stateless following the transfer of sovereignty is noted with interest. It is, however, a matter of concern that such status does not grant the bearer the right of abode in the United Kingdom and contrasts with the full citizenship status conferred upon a predominantly white population living in another dependent territory. It is noted that most of the persons holding BNO or BOC status are Asians and that judgements on applications for citizenship appear to vary according to the country of origin, which leads to the assumption that this practice reveals elements of racial discrimination.

21. Concern is also expressed about the "two-week rule", which prohibits foreign workers from seeking employment or remaining in Hong Kong more than two weeks after the expiration of their employment contracts. In view of the fact that the overwhelming majority of the persons affected by this rule are female Filipino foreign domestic workers, this rule appears to have discriminatory aspects under the terms of the Convention, which may leave workers vulnerable to abusive employers.

22. In connection with Vietnamese asylum-seekers in Hong Kong, there are serious indications that the conditions to which these persons are subjected during their often prolonged detention in refugee centres constitute a violation of their human rights and require urgent attention. Of principal concern is the absence of educational facilities for the children in these centres.

E. Suggestions and recommendations

23. The Committee recommends that the State Party submit information on why anti-discrimination legislation, specifically the 1976 Race Relations Act and the 1994 Criminal Justice and Public Order Act, is not applied equally throughout the territory of the United Kingdom. Further, the Committee recommends that the Race Relations Act be re-examined with a view to elevating its status in domestic law so that it may not be superseded by new rules or laws. The Committee also recommends that the United Kingdom reconsider its interpretation of article 4.

24. The Committee recommends, with respect to articles 5 and 6, that the adequacy of legal aid available to alleged victims of racial discrimination be reviewed and that all complaints of police brutality be vigorously and independently investigated and the perpetrators punished. It recommends that investigations into deaths in custody be carried out expeditiously by independent inquiry mechanisms. The Committee further recommends that comprehensive, action-oriented studies be undertaken to ascertain the reasons behind the low participation of persons belonging to ethnic minority groups in elections, both as voters and as candidates for public office, the reason for their low representation in the police and armed forces, and the reason for their disproportionately high level of unemployment.

25. Noting with satisfaction the willingness of the State Party to inform the Committee in a more comprehensive manner about the role and the functioning of industrial tribunals dealing with complaints relating to discrimination in employment, the Committee recommends that in the next periodic report special attention be given to such aspects as accessibility, procedures and types of redress.

26. The Committee recommends that the next report of the State Party contain detailed information on complaints and sentences relating to acts of racial or ethnic discrimination.

27. The Committee recommends that, during the further consideration of the 1995 Asylum and Immigration Bill, published on 30 November 1995, full consideration be taken of the provisions of the Convention. Detailed information about its application and the ethnic composition of potentially affected persons is requested in the fourteenth periodic report.

28. The Committee recommends that effective programmes be established to care for the health and educational needs of the Irish Traveller community in Great Britain and Northern Ireland.

29. The Committee takes note of the establishment of the Ethnic Minorities Advisory Committee (EMAC) in 1991 to assist the Judicial Studies Board in addressing racial and multicultural issues in courts. The Committee requests that information be submitted in the fourteenth periodic report indicating whether training from EMAC is obligatory for all judges and how many judges have actually received training by the date of submission of that report.

30. In view of the fact that many of the persons found not to be entitled to remain in the United Kingdom are members of minority groups, the Committee reiterates its position that States are obligated under the Convention not only to enact appropriate legislation but also to ensure its effective implementation.

31. The Committee recommends that the provisions of the Convention be taken into full account in the drafting of comprehensive race relations legislation for Northern Ireland. The Committee recommends that an effort be made to make available in the principal minority languages important public information, particularly concerning basic health care.

32. With respect to articles 5 (e) and 7 of the Convention, the Committee repeats its recommendation that in the next report information be included regarding the development of plans to improve the economic and social conditions of minority groups through various measures in the field of employment and training, housing, social services, health and education, and in particular that the fourteenth periodic report include specific information on the number of persons from minority groups assisted through the programmes in place or to be introduced. The report should also address the manner in which such persons were assisted and the effect of the programmes on their overall welfare. Among the programmes discussed should be the Single Regeneration Budget, the Equal Opportunities Ten-Point Plan for Employers and the various educational grants for minority students.

33. Noting with concern the absence of legislation in Northern Ireland to outlaw racial discrimination and the Government's statement that close consideration is being given to this issue, the Committee recommends that a bill be promulgated as soon as possible.

34. The Committee notes with interest that action is taken to address the needs of children from the Black and other minority communities who are excluded from schools and recommends that the Government regularly collect and analyse data relating to the academic progress of children, broken down by ethnicity, to develop policies and programmes with a view to eliminating disadvantages based on race.

35. With respect to Hong Kong, the Committee recommends that efforts be made to determine the ethnic and racial composition of the population. The Committee recommends that the Bill of Rights Ordinance be amended to extend the prohibition of discrimination to acts committed by private persons, groups or organizations, as provided for in article 2, paragraph 1 (d), of the Convention. The Committee recommends that the "two-week rule" be modified to allow foreign workers to seek new employment in Hong Kong when their employment contracts are terminated.

36. The Committee recommends that the question of the citizenship status of Hong Kong residents belonging to ethnic minorities of Asian origin be reviewed to ensure that their human rights are protected and that they are not discriminated against as compared with residents of other former colonies of the United Kingdom.

37. The Committee recommends that the fourteenth periodic report, due on 5 April 1996, be an updating report, that it contain information on the metropolitan territory as well as on the dependent territories, including Hong Kong, and that it address all the points raised in these observations.
