



31 May 2016

**A statement from Hong Kong Unison in response to the judgment on**

**SINGH ARJUN (by his next friend Singh Anita Guruprit) v.**

**THE SECRETARY FOR JUSTICE and Hung Kai Kam**

**[Case no.: DCEO9/2011]**

After a long 20-month wait, the District Court has finally issued a judgment yesterday (May 30) on a race discrimination case against the police that took place 6 years ago involving an 11 year old permanent resident of Indian ethnicity. Mr. Arjun SINGH filed a case against the police for discriminating him on the grounds of race by failing to provide adequate police services. The court holds that the acts of the police in investigation and arrest do not amount to ‘services’ for the purpose of section 27 of the Race Discrimination Ordinance, Cap 62 (“RDO”) and policing is not bound by the RDO. Hong Kong Unison expresses our deep disappointment in the judgment. This case highlights a key weakness in the RDO as it is the only Ordinance amongst the four Discrimination Ordinances that does not mention that it is unlawful for the Government to discriminate against persons on the grounds of race in the performance of its functions or the exercise of its powers.

This judgment has been eagerly awaited by all, particularly given the complainant is a minor and this is the first case adjudicated under the RDO involving a public authority since it came into operation in 2009. An 11 year-old at the time of the incident 6 years ago, Mr. SINGH alleged that he was violently grabbed and held by an adult of Chinese ethnicity in Wanchai MTR station, whilst the adult of Chinese ethnicity alleged that Mr. Singh assaulted her by bumping into her as he was walking up the escalator. Although both parties called “999”, the Chinese was not arrested or investigated; Mr. SINGH, on the other hand, was brought to the Wanchai Police station and detained for several hours pending the arrival of a Punjabi-speaking interpreter even though he asserted that he only understood English.

Ethnic minorities are often unfairly treated by the police, so much so that they are reluctant to seek help from the police even when they are in trouble. Mr. Singh chose to brave the system, which took great courage. Yet, Mr. Singh had to spend one-third of his life waiting for justice to arrive since the time of the incident until the delivery of the judgment yesterday. The judgment added disappointment to the traumatic experience for Mr. Singh who had to go through this ordeal before he even turned 18. The judgment shows that it is very difficult to bring a case under the RDO and the scope of the law is vague; it also proves just how essential it is to strengthen the RDO to make it apply to the government in the exercise of its functions and powers and not only binds the government in areas such as “service”. Unison cannot emphasize enough the dire need for the RDO to be amended; the Equal Opportunity Commissions also made such a recommendation in its recent report of the Discrimination Law Review.

In the absence of the relevant provision in the RDO, the court is in a unique position to send a clear message about protecting ethnic minorities against racial discrimination, particularly in the context of law enforcement, in which the tendencies of racial profiling of ethnic minorities have been noted globally as well as the fact that all this occurs against the backdrop of Hong Kong’s obligations under ICERD. This was a missed opportunity at instilling confidence in Hong Kong’s commitment to protection against racial discrimination.

To rectify the current situation, Hong Kong Unison urges the Police Force to step up training and develop clear guidelines to raise awareness of police officers on human rights and racial discrimination. Without prejudging the motive of any party, the police should be aware of possible racial undertone in situations involving ethnic minorities. The Police Force has recruited a handful



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of ethnic minority constables in the last few years, but the task of enhancing racial sensitivity of the Force is far from being done.

It is high time the government considers a racial equality mandate with a statutory duty to eliminate racial discrimination and promote racial equality and harmony within all sectors of the government, including the provision of its service, performance of its functions, and exercise of its powers.