



Press Release

“Study on the Discrimination Experience based on Residency Status of Asylum Seeker/ Refugee (ASR) in Hong Kong”

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HKU research reveals discrimination against ASR in Hong Kong happens in all levels including immigration/ asylum seeking systems

To investigate the actual discrimination that asylum seekers/ refugees (ASR) in Hong Kong have experienced and the effectiveness of the Race Discrimination Ordinance (RDO) in protecting them from discrimination, the Department of Professional Legal Education, University of Hong Kong carried out a study, which is funded by the Equal Opportunities Commission (EOC). From December 2017 to November 2018, 83 ASRs participated in a questionnaire survey and 12 ASRs were interviewed. Research findings reveal that ASR commonly encounter discrimination at daily, operational and policy levels, which include the immigration/asylum seeking systems. All these affect their social and economic rights in Hong Kong. However, RDO is unable to protect ASR from race discrimination in different levels because they are not entitled to most of the rights that are within the scope of RDO, and discrimination based on residency status is not included in the RDO. To eliminate all kinds of discrimination and facilitate the development of a harmonious community, further action is needed.

Background Information about ASR in Hong Kong

Although Hong Kong has not ratified the 1951 Refugee Convention, Hong Kong is bound by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), in which Hong Kong cannot return any individuals seeking asylum, back to their home country if they face the risk of torture. These individuals are asylum seeker (non-refoulement claimant), and are offered temporary protection in Hong Kong. It is under the Universal Declaration of Human Rights, that everyone has the right to seek and to enjoy in other countries asylum from persecution. With other treaties Hong Kong is subscribed to, ASR should also be entitled to related basic human right in Hong Kong, which include social and economic rights, as well as the right to be free from discrimination. However, given the lack of protection due to the absence of a refugee law in Hong Kong, it is vital that the Race Discrimination Ordinance is able to provide more comprehensive protection for them.

ASs in Hong Kong need to go through an Unified Screening Mechanism (USM) by Immigration Department to get their cases substantiated as refugees who are eligible for a chance to be resettled in a third country. However, under the immigration/ asylum seeking systems, they are labelled as illegal immigrants, regardless of their cases being substantiated or not, the discrimination is rooted in the systematic labeling of “illegal immigrants”. As at the end of 2018, there were only 546 outstanding non-refoulement claims in Hong Kong comparing to 9981 outstanding cases as at the end of 2016. The USM’s assessment has been speeding up in these two years, but the recognition rate, which is 0.4%, remains one of the lowest comparing to the international rate or any other countries in East Asia. Also, given that the number of new asylum seeking application is decreasing, some of the Hong Kong people still see the “ASR flood” as a threat to local community claimed by some politicians and media. The

understanding about ASR among the locals in Hong Kong is insufficient and mostly mislead, which may have intensified the discrimination towards ASR.

Key Findings

1. About 90% of ASR participants expressed that they are discriminated in Hong Kong, but only about 10% ASR participants know about EOC or RDO.
2. Discrimination from seeking housing, seeking services from the private sector and on the street or in public spaces are the most perceived and influential three areas of discrimination experienced by the ASR participants in Hong Kong.
3. African ASR participants experience discrimination more often than ASR from Southern Asia and Middle East; the wellbeing of ASR participants with darker skin colour (WHO-5: 49.42) is also significantly worse than their counterparts of white (58.13) or other skin colours (80.67).
4. Skin colour is one of the significant factors causing different discrimination experiences at the daily level, especially on the street or when receiving services, from the shopkeepers, cashiers at supermarkets, and taxi drivers; while residency status is a factor causing discrimination in the operational and policy levels, particularly in administrative procedures which require residential proof.
5. At the daily level, ASR interviewees commonly experience unfriendliness or even hostility on the street, and they have difficulties in seeking help and services. Insulting incidents happen, not often, but sometimes to some of the interviewees.
6. At the operational level, interviewees experience discrimination in seeking housing, getting medical services, education/ library, Immigration Department and judicial trial/ procedures.
7. At policy level, interviewees expressed that their discrimination is mainly from the immigration/ asylum seeking systems, a limited access to rights to social welfare and the prohibition from work.

Recommendations

1. In line with international human right standards, the residency status of ASRs should not limit the protection of their human rights. The EOC, community advocates and policy makers should advocate for the improvement of policies:
 - a. The immigration and asylum seeking systems should provide fair assessment and screening procedures for ASR instead of labelling them as illegal migrants, which in itself is an act of discrimination further reinforcing discrimination against them at all levels.
 - b. The right to work, a basic economic, social and cultural right for all people, should be protected and can alleviate the perpetuated discriminatory stereotypes and be one of the humane alternatives for the negative situation ASR face.
2. To eliminate discrimination and facilitate the development of a harmonious community, the general public would need to know more about ASR as humans. More resources need to be allocated for education and training about ASR's reasons for coming to Hong Kong, and the current difficulties they face in Hong Kong.

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