

**Hong Kong Human Rights Monitor
Oxfam Hong Kong**

**BACKGROUND ON
ENACTING
A RACIAL DISCRIMINATION LEGISLATION
FOR HONG KONG**

August 2004

Table of Contents

1. UNDERSTANDING DISCRIMINATION

1.1 What is racial discrimination and why is racial discrimination legislation necessary?

Fig. 1 Examples of racial discrimination documented

1.2 Direct vs. Indirect Discrimination

1.3 Hypothetical Illustration on Direct and Indirect Discrimination

Fig. 2 Some Statistics on Racial Discrimination in Hong Kong

2. MAJOR ISSUES ON EQUAL OPPORTUNITIES LEGISLATION

2.1 Scope of protection

2.1.1 Areas of protection offered by existing Hong Kong ordinances

a. The Sex Discrimination Ordinance & the Family Status Discrimination Ordinance

b. The Disability Discrimination Ordinance

2.1.2 The Government's Proposed Scope of Protection for a Racial Discrimination Ordinance

2.2 Exceptions

2.2.1 Race Relations Act 1976 (U.K.)

2.2.2 Exceptions in existing Hong Kong legislation

a. The Sex Discrimination Ordinance

b. The Disability Discrimination Ordinance

c. The Family Status Discrimination Ordinance

Fig. 3 An additional point to consider

2.3 Special Measures

2.3.1 Why have special measures?

2.3.2 Special measures under international law

Fig. 4 Dispelling special measure myths

3. WHAT GROUNDS?

Fig. 5 Grounds in some jurisdictions' anti-discrimination legislation closely resemble ICERD's grounds

4. RACIAL PROFILING

4.1 What is racial profiling?

Fig. 6 A hypothetical illustration on racial profiling

4.2 What are lawmakers doing about racial profiling?

Fig. 7 A Canadian court speaks out against racial profiling

4.3 What should Hong Kong do about racial profiling?

5. REFERENCE LIST

6. APPENDIX Information paper on exceptions in the proposed legislation

1. UNDERSTANDING DISCRIMINATION

1.1. What is racial discrimination and why is racial discrimination legislation necessary?

According to Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”), “the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

Hong Kong holds obligations pursuant to ICERD due to China’s Ratification of the Convention. Specifically, Article 5 of ICERD provides that “State parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before law.” The United Nations Committee on Elimination of Racial Discrimination has interpreted ICERD to mean that jurisdictions like Hong Kong must introduce specific legislation to curtail racial discrimination.

Furthermore, the United Nations Committee on Economic, Social and Political Rights has stated that Hong Kong’s lack of legislation prohibiting racial discrimination in the private sector is a breach of Hong Kong’s obligations under the International Covenant on Economic, Social and Cultural Rights (“ICESCR”).

Fig. 1

Examples of racial discrimination documented:

- *Provision of services*

A Filipino Domestic Helper alleged that the shopkeeper of a bakery had racially insulted her, loudly calling her a "troublesome Bun Mui."

- *Provision of housing*

The complainant, an Indian, who had only recently arrived in Hong Kong, alleged a property agent barred him from viewing a flat because of his race. It was a common practice among property agents in the district to ask the landlords if they could accept Indians prior to arranging viewings.

- *Public body*

A Pakistani was living in a district with relatively high numbers of minority residents. He complained he was referred by a clinic to attend a medical examination in a public hospital but missed the appointment because of the absence of bilingual signage.

- *Private body*

A Caucasian lodged a complaint against the classes of members and membership fee of a community club. The complainant alleged that Chinese were eligible for "Life Membership" at \$1,000 per annum while non-Chinese could become "Life Associate Members" at \$2,000.

Reference: Race Relations Unit, HKSAR Government http://www.hab.gov.hk/en/policy_responsibilities/the_rights_of_the_individuals/122402com.htm

Thus, Hong Kong's obligations under ICERD and ICESCR are reasons for Hong Kong to introduce legislation on racial discrimination. Moreover, the Hong Kong government should enact racial discrimination legislation out of interest its for the people of Hong Kong.

1.2. Direct vs. Indirect Discrimination

Direct discrimination occurs when people are treated less favourably because they belong to a certain race. *Indirect discrimination* includes acts or policies which appear to be neutral on the surface because they treat everyone the same way, but in practice, have a negative effect on a higher proportion of people from one particular race. In some parts of the world, such as the United States, indirect discrimination is called "disparate impact" discrimination because indirect discrimination exists whenever one racial group is impacted disparately by an action, even if that action was neutral on its face. It is important to remember that *both* direct and indirect discrimination are violations of ICERD; that is to say, both types of discrimination violate Hong Kong's obligations under international human rights law.

1.3. Hypothetical Illustrations on Direct and Indirect Discrimination

Direct Discrimination

A local company placed an advertisement in a newspaper. B, a South Asian born in Hong Kong, telephoned the company to apply for the job. The manager conducted a telephone interview and informed B that they would like to give him the job and asked him to go to the company to sign the employment contract. However, when B arrived at the company, he was informed by the manager that he would not hire B. The manager said, "we have hired people from your country before. You simply do not share the Chinese work ethic. We will not make the same mistake again." This is direct discrimination.

Indirect discrimination

After the episode discussed above, the manager decided to impose a language test on all job applicants. All applicants now have to pass a Chinese test, even though the job itself does not require any Chinese language skills. This is indirect discrimination.

Fig 2 Some Statistics on Racial Discrimination in Hong Kong :

In March 2001, a total of 343 950 ethnic minorities, constituting 5.1% of the whole population in Hong Kong, were living in Hong Kong. They comprised Filipinos (41.4%), Indonesians (14.7%), Mixed (5.7%), British (5.5%), Indians (5.4%), Thais (4.2%), Japaneses (4.1%), Nepalese (3.7%), Pakistanis (3.2%), Americans/Canadians (2.7%), Australians/NewZealanders (2.0%), Koreans (1.5%) and others (5.9%). The majority of ethnic minorities in Hong Kong were usual residents (99.0%) in Hong Kong while only 3 271 (1.0%) were mobile residents.

The Yang Memorial Methodist Service found in 2000 that nearly 40% of South Asian students had difficulty finding school places and some had waited from 6 months to 3 years. To improve the situation, more classes for Non-Chinese Speaking students have been offered by the Government.

According to a survey conducted by the City University concerning the employment of Southern Asians in Hong Kong, about 30% of the interviewees have remain unemployed for more than one year.

2. 2. MAJOR ISSUES ON EQUAL OPPORTUNITIES LEGISLATION

2.1. Scope of Protection

2.1.1. Areas of protection offered by existing Hong Kong ordinances

There are three equal opportunities ordinances in Hong Kong. They deal with sex, disabilities and family status discrimination respectively. None of them addresses racial discrimination. They offer protection by prohibiting discrimination in several important areas or scopes. A summary of the protected areas under the three existing ordinances is set out below:

a. The Sex Discrimination Ordinance & the Family Status Discrimination Ordinance :

- Employment
- Education
- Provision of goods, services or facilities
- Disposal or management of premises
- Eligibility to vote for and to be elected or appointed to advisory bodies
- Participation in clubs
- Activities of Government

b. The Disability Discrimination Ordinance:

- Employment
- Education
- Provision of goods, services and facilities
- Access to premises
- Disposal or management of premises
- Participation in clubs and sporting activities
- Activities of Government

2.1.2. The Government's Proposed Scope of Protection for a Racial Discrimination Ordinance

- Employment
- Admission to trade unions, employers' organizations, professional/trade organizations, or occupations
- Conferment of professional/trade qualifications
- Admission to educational establishments
- Provisions of goods and services
- Admission to pupillage
- Advertising

2.2. Exceptions

In some circumstances, implementation of anti-discrimination legislation may conflict with other public policy initiatives. To ensure that public policy goals are not compromised, governments often provide a limited number of exceptions to anti-discrimination legislation. What exceptions should Hong Kong's proposed Racial Discrimination Ordinance include? (A copy of the exceptions proposed by the Government for the Racial Discrimination Ordinance is available as a separate flyer.)

2.2.1 Race Relations Act 1976 (UK)

The United Kingdom's racial discrimination legislation may provide some insight. It provides exceptions for the following:

- All clubs whose main object is to benefit members of a particular race or ethnic group or national origin, but NOT members of a particular colour.¹
- Employment where being of a particular *racial* group is a “genuine occupational qualification.”² The Act limits genuine occupational qualifications to (1) jobs that require “authenticity” (which the Act limits to entertainment, visual arts, and restaurant jobs)³ and (2) jobs that service the welfare of a particular race when “those services can most effectively be provided by a person of that racial group.”⁴
- Employment within a private household.⁵
- Employment outside Great Britain.⁶
- Leasing of small dwellings.⁷
- Special educational arrangements for non-residents, such as foreign students.⁸
- Fostering and boarding of people in need of special care, such as children, the elderly, and the disabled.⁹ (The 1989 Children Act reiterated this principle by stipulating that the government must consider race, cultural and linguistic background when placing children under its custody.¹⁰)
- Positive actions—the Race Relations Act allows, but does not require employers, training bodies, trade unions, and employers' organizations to implement positive action programs that favor a particular racial group to remedy under-representation of that group.¹¹
- Employment in service of the Crown, when the Minister for the Civil Service has stipulated birth, nationality, descent or residence as an occupational criterion.¹²
- Discrimination in order to comply with a charitable instrument, excluding discrimination on the grounds of colour.¹³

¹ 1976 Race Relations Act (United Kingdom) s. 26.

² Ibid. s. 5.

³ Ibid. s. 5(2)(a)-(c).

⁴ Ibid. s. 5(2)(d).

⁵ Ibid. s. 4(3).

⁶ Ibid. ss. 6 and 9.

⁷ Ibid. s. 22.

⁸ Ibid. s. 36.

⁹ Ibid. s.23(2).

¹⁰ Ibid. s. 22(5)(c).

¹¹ Ibid. ss. 35, 37-8.

¹² Ibid. s. 75.5.

¹³ Ibid. s. 34.

- Discrimination with regards to selecting persons to represent a country, place or area, or any related association, in sports and games.¹⁴
- Discrimination sanctioned by other statutory authority.¹⁵
- Discrimination for the purpose of national security.¹⁶

2.2.2. Exceptions in existing Hong Kong legislation

Exceptions in existing Hong Kong legislation may also provide insight.

a. Sex Discrimination Ordinance

Exceptions in the Sex Discrimination Ordinance (CAP 480) include the following:

- Employment where being of a particular sex is a genuine occupational need.¹⁷
- Government, in the exercise of power in relation to¹⁸:
 - a person not having the right to enter and remain in Hong Kong, any act done under any immigration legislation governing entry into, stay in and departure from Hong Kong; or
 - any act done in relation to a woman if it was necessary for that act to be done in order to comply with a requirement of an existing statutory provision.
- Conduct for religion purposes.¹⁹
- Single-sex educational establishment.²⁰
- Small dwellings.²¹
- The restriction of membership or provision of benefits, facilities or services to members of any body to persons of one sex by an organization not operating for profit.²²
- Establishments that are, or are part of, a hospital, reception centre or other establishment for persons requiring special care, supervision or attention.²³
- Facilities or services that are provided for, or are likely to be used by, two or more persons at the same time, and-
 - (i) the facilities or services are such, or those persons are such, that male users are likely to suffer serious embarrassment at the presence of a woman; or
 - (ii) the facilities or services are such that a user is likely to be in a state of undress and a male user might reasonably object to the presence of a female user.²⁴

b. Disability Discrimination Ordinance

Exceptions in the Disability Discrimination Ordinance (CAP 487) include the following:

¹⁴ Ibid. s. 39.

¹⁵ Ibid. s. 41.

¹⁶ Ibid. s. 42.

¹⁷ Sex Discrimination Ordinance (CAP 480), s.12. For definition of genuine occupation need, please refer to s.12(2).

¹⁸ Ibid, s.21(2).

¹⁹ Ibid, s.22.

²⁰ Ibid, s.26.

²¹ Ibid, s.31.

²² Ibid, s.33.

²³ Ibid, s.34(1)(a).

²⁴ Ibid, s.34(1)(c).

- Employment where disability status is a genuine occupational qualification.²⁵
- Government, in the exercise of power in relation to²⁶:
 - as regards a person not having the right to enter and remain in Hong Kong, any act done under any immigration legislation governing entry into, stay in and departure from Hong Kong; or
 - any act done in relation to a woman if it was necessary for that act to be done in order to comply with a requirement of an existing statutory provision.
 - Small dwellings.²⁷
- Activities of voluntary bodies provided that²⁸:
 - the restriction of membership of any body to which this section applies to persons without a disability (disregarding any minor exceptions) where such restriction is reasonable having regard to the main object of the body; or
 - the provision of benefits, services or facilities to members of any body to which this section applies where the membership is so restricted]

c. Family Status Discrimination Ordinance

Exceptions in the Family Status Discrimination Ordinance (CAP 527) include the following:

- Small dwellings²⁹
- Activities of voluntary bodies provided that³⁰
 - the restriction of membership of any body to which this section applies with reference to family status or a particular family status; or
 - the provision of benefits, facilities or services to members of any body to which this section applies where the membership is so restricted

Fig 3 An additional point to consider

In Title VII of the United States' 1964 Civil Rights Act, the "bona fide occupational qualification" exception *does not* apply to *racial or colour* discrimination; it only applies to religion, sex, and national origin. Should Hong Kong adopt the United States' narrow parameters for exceptions related to occupational qualifications?

2.3.1 Why have special measures?

Creating a colour-blind society often does not remedy past discrimination. The effects of past discrimination usually linger on in the form of an unlevel playing field. That is to say, because certain

²⁵ Disability Discrimination Ordinance (CAP 487), s.12.

²⁶ Ibid, s.21(2).

²⁷ Ibid, s.30.

²⁸ Ibid, s.31.

²⁹ Family Status Discrimination Ordinance (CAP527), s.22.

³⁰ Ibid, s.23.

racial groups were discriminated against in the past, they may not be equipped with adequate education and work experience to compete for opportunities in the present. In order to ensure that groups which have suffered past discrimination can enjoy equality of opportunity, special measures permit positive actions in favour of these groups, even if such actions are discriminatory on their face. Positive actions are an acceptable exception to anti-discrimination laws because these actions are necessary to compensate for the effects of past discrimination.

2.3.2 Special Measures under international law

Special measures are generally accepted under international law, for example, Article 1(4) of ICERD states:

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Other jurisdictions have embraced special measures. For example, the Council of the European Union issued a directive³¹ that states:

The prohibition of discrimination should be without prejudice to the maintenance or adoption of measures intended to prevent or compensate for disadvantages suffered by a group of persons of a particular racial or ethnic origin, and such measures may permit organizations of persons of a particular racial or ethnic origin where their main object is the promotion of the special needs of those persons.

Fig. 4 *Dispelling special measure myths*

- Special measures do not require hiring quotas.
- Special measures do not require employers to hire unqualified candidates who are racial minorities.
- Special measures do include programs such as increased recruitment of racial minorities and diversity training for employees.
- Special measures do allow employers to take a candidate's disadvantaged racial status into consideration when the employer is choosing among several candidates with similar qualifications.

3. WHAT GROUNDS?

³¹ Council Directive 2000/43/EC (29 June 2000), at recital 17.

What grounds of discrimination should be considered *racial* discrimination? As mentioned in the introduction of this pamphlet, Article 1 of ICERD includes “race, colour, descent, [and] national or ethnic origin” as grounds for racial discrimination.

Fig 5 Grounds in some jurisdictions’ anti-discrimination legislation closely resemble ICERD’s grounds

Examples:

“[C]olour, race, nationality or ethnic or national origins . . .”

- Race Relations Act of 1974 (UK), Part I s. 3(1)

“[R]ace, color, religion, sex, or national origin . . .”

- Civil Rights Act of 1964 (US), Title VII § 2000e-2(a)(1)

“[R]ace, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.”

- Canadian Human Rights Act, Part I s. 3

Looking beyond ICERD: the flexibility of grounds

In drafting its Racial Discrimination Ordinance, Hong Kong lawmakers should consider whether they aim simply to satisfy ICERD as a legal technicality *or* whether they truly aim to protect the human dignity of people in Hong Kong. ICERD serves only as a technical minimum. Grounds are flexible. Lawmakers should look beyond ICERD and ask how a Racial Discrimination Ordinance can best serve Hong Kong’s unique needs; lawmakers should then define grounds accordingly.

ICERD’s grounds have been criticized for being under-inclusive.³² Oftentimes, groups of people suffer discrimination that is functionally equivalent to racial discrimination, as it is defined by ICERD. That is to say, some groups of people suffer from negative stereotyping that is similar to that suffered by traditional “racial” minorities, and those stereotypes translate into the same inequalities that traditional racial minorities suffer.

For example, scholars have noted that a person’s *regional origin* can sometimes lead to inequalities similar to those suffered by racial minorities.³³ As a result, some jurisdictions have included “regional origin” as a specified ground for protection in their anti-discrimination legislation.³⁴ Another example of a ground that is not specified by ICERD—but sometimes included in legislation—is “family origin.”³⁵

³² See, e.g., Berta Esperanza Hernández-Truyol, “Latinas, Culture, and Human Rights: A Model for Making Change, Saving Soul,” 23 *Women’s Rights Law Reporter* 21 (2001). Professor Hernández-Truyol uses the Latina community to illustrate that notions of race, as articulated by ICERD, are insufficient for anti-discrimination laws. She remarks: “[A] multidimensionality perspective [on race] is much more realistic in the context of the human condition and our daily existence. Beyond the incoherent definition of race in [ICERD], it is also important to understand that different cultural groups have different understandings of the concept of race.” *Ibid.*

³³ See, e.g., Ilhyung Lee, “Equivalence at Law (and Society): Social Status in Korea, Race in America,” 37 *Vanderbilt Journal of Transnational Law* 109 (2004) (discussing various functional equivalents to race, such as “regional origin,” in Korean society).

³⁴ “Regional origin” is a ground specified in legal instruments ranging from the Korean National Human Rights Commission Act, to the Togolese Constitution, to the municipal anti-discrimination code of Cincinnati in the United States.

³⁵ The Japanese and Colombian constitutions are examples of laws that include “family origin” as a specified ground for protection against

Because grounds are flexible, Hong Kong should consider adding grounds to its Racial Discrimination Ordinance that will best suit its social situation. In Hong Kong, people from Mainland China often suffer from discrimination that is akin to traditional racial discrimination. If lawmakers seek to protect the human dignity of all people in Hong Kong, they should consider articulating grounds in a manner that would encompass Mainland Chinese as a protected class.

Since Mainlanders share national and ethnic identities with native Hong Kong people, ICERD's traditional grounds may not adequately protect Mainlanders. To protect Mainlanders, lawmakers may use a term like "regional origin" or "family origin" to capture the Mainland Chinese as a protected class. Alternatively, lawmakers may explicitly state in its Ordinance that, for the purpose of the Ordinance, "Mainland Chinese" is deemed to be a racial group—this would be similar to Irish legislation, which states that "Irish Travellers" are a racial group for the purpose of Northern Ireland's racial discrimination legislation, even though Irish Travellers may not seem like an obviously discrete racial demographic.³⁶

4. RACIAL PROFILING

4.1 What is racial profiling?

The term 'racial profiling' means the practice of a law enforcement agent relying, to any degree, on race, ethnicity, religion, or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links persons of a particular race, ethnicity, religion, or national origin to an identified criminal incident or scheme.³⁷

Sometimes, race may be legitimately relevant to a crime investigation. However, race is often used arbitrarily and capriciously in crime investigations. When this occurs, law enforcement officers are using racial profiling, a type of discrimination.

discrimination.

³⁶ See Race Relations (Northern Ireland) Order 1997, s. 3.2.

³⁷ This definition is quoted from the "End Racial Profiling Act of 2004," which is pending in the United States Congress. See U.S. Senate Bill no. 2132 (2004) § 501.

Fig. 6 An hypothetical illustration on racial profiling

Mr. A and his three brothers are all of Middle Eastern descent. The four brothers are upstanding citizens of Hong Kong. One evening, the four brothers happen to be hanging out, right outside of a popular pub. Unfortunately, Policewoman Q and her Partner R harbor negative stereotypes about Middle Eastern people. Q and R assume that four Middle Eastern men congregated late at night outside a pub must mean trouble. Even though there are many people entering and leaving the pub, Q and R single out the brothers for an investigation. The four brothers are pulled aside for lengthy and confrontational questioning. Q and R had no evidence that the brothers have any relation to a crime. Instead, Q and R acted on their stereotypes. Onlookers assume that the brothers are criminals and give them dirty looks. The four brothers become quite embarrassed. This situation is an example of racial profiling. The discriminatory investigation deprived the brothers of their right to privacy and right to be free from arbitrary detention.

4.2 What are lawmakers doing about racial profiling?

Lawmakers first began to understand the extent of racial profiling in the 1990s, when data-intensive studies showed that law enforcement agents often unfairly use race as factor in criminal investigations.³⁸ As a result, the international community and national governments began tackling the racial profiling problem in the 1990s.

In 1993, the United Nations Committee on the Elimination of Racial Discrimination reminded the global community that law enforcement agents should be held responsible for discrimination. It stated:

[V]ery much depends upon national law enforcement officials who exercise police powers, especially the powers of detention or arrest, and upon whether they are properly informed about the obligations their State has entered into under the Convention. Law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin. . . . [T]he Committee calls upon States Parties to review and improve the training of law enforcement officials so that the standards of the Convention . . . are fully implemented.³⁹

Fig. 7 A Canadian court speaks out against racial profiling:

Stereotypical assumptions linking young black men and the illegal use of narcotics do not provide a lawful basis to detain or arrest them. . . . Stereotypical assumptions . . . have no proper place in a properly conducted investigation. The inherent worth and dignity of all people regardless of their race or ethnic origin must be respected by the police at all times during the investigation of even the most heinous crimes.

- *R v. Peck*, O.J. No. 4581 (Ont. S.C.J. 2001), Canada

In other jurisdictions, government leaders have taken positive steps to combat racial discrimination. In the United States for example, numerous state and local legislatures have passed legislation to ban racial profiling and to implement data-collection programs to monitor racial profiling practices.⁴⁰ This past year, the United States Department of Justice issued a directive banning racial profiling by all federal law enforcement agencies, except in cases involving possible terrorism.⁴¹ That directive applies to United States agencies such as the Federal Bureau of Investigations (“FBI”) and the Drug Enforcement Administration (“DEA”), and the Department of Homeland Security.⁴² In the United States, there is also a piece of federal racial profiling legislation pending in the United States Congress.⁴³

4.3 What should Hong Kong do about racial profiling?

Hong Kong should include a racial profiling provision in its proposed Racial Discrimination Ordinance. The provision should ensure that race is only used as a factor in law enforcement investigations when race is legitimately relevant to the crime and there is evidence to support that nexus. Stereotypes should not warrant the use of race as grounds for a criminal investigation.

⁴⁰ See Police Foundation (US), “Racial Profiling: The State of the Law,” available at <http://www.policefoundation.org/pdf/racialprofiling/pdf> (summarizing legislation and executive orders in all fifty states of the United States).

⁴¹ Jessamyn Blau Post, “New Rules Ban Most Racial Profiling,” *St. Louis Post*, at A1, 18 June 2003.

⁴² *Ibid.*

⁴³ See note 37, *supra*.

REFERENCE LIST

International Convention on the Elimination of All Forms of Racial Discrimination

<http://www.hkhrm.org.hk/database/english/et010.html>

Office of the UN High Commissioner for Human Rights

<http://www.unhchr.ch/>

Home Affairs bureau, Hong Kong SAR Government:

<http://www.hab.gov.hk>

Hong Kong 2001 Population Census Thematic Report – Ethnic Minorities

<http://www.info.gov.hk/censtatd/eng/news/01c/ethnic.pdf>

United Kingdom Commission for Racial Equality

<http://www.cre.gov.uk>

Australia Human Rights and Equal Opportunity Commission

<http://www.hreoc.gov.au>

**Third Meeting of the Human Rights Forum
25 August 2004**

Proposed Legislation Against Racial Discrimination: Exceptions

Introduction

1. This paper outlines the exceptions under consideration in our proposed legislation against racial discrimination.

Background

2. It is proposed that the relevant Bill should be modelled on the structure and format of the three existing anti-discrimination Ordinances, namely the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance. The exceptions under consideration are essentially similar to those that applied – or had formerly applied – under those ordinances.

Exceptions under consideration

3. **Exception for small companies:** unlike large companies, small companies may need some time to adapt to a new regulatory regime. It is proposed that an exception from the anti-discriminatory provision in the field of employment should be made in the case of an employer who has less than six employees (i.e., a company or shop with five or less employees). However, there should be a "sunset" clause under which this exception would expire three years after the Bill is enacted into law and becomes operative.

4. **Genuine occupational qualification:** it is proposed that an exception should also be provided in the case where being of a particular racial or ethnic group is a genuine occupational qualification for a job. For example, a producer should be allowed to limit his casting to actors of Indian origin to play the role of an Indian in a film or play.

5. **Exception for small dwellings:** it is proposed that an exception from the provisions of the Bill dealing with the disposal of premises should be made in the case of premises forming part of small dwellings which are shared by the landlord and the lodger or tenant.

6. **Exception for certain voluntary bodies and clubs:** an exception from the relevant provisions of the Bill should be made in the case of voluntary bodies which restrict membership to a particular racial or ethnic group. An exception should also be made if the main object of a club is to enable the benefits of membership to be enjoyed by persons of a particular racial or ethnic group.

7. **Special measures:** the Bill should provide that any special measures taken in respect of persons of a particular racial or ethnic group to give equal opportunities with other persons should not be rendered unlawful under the Bill. For example, special measures such as “headstart programmes” or “remedial classes” for children of ethnic minorities should be exempted.

8. **Charities:** it is proposed that certain charities which provide benefits to certain groups of people defined by reference to racial or ethnic origins should be protected against provisions of the Bill which might otherwise make the provision of such benefits unlawful.

9. **Special training:** it is proposed that the Bill should make clear that, in relation to training, it is not unlawful to afford only persons of a particular racial or ethnic group access to facilities for training which would help to fit them for that work, or to encourage only persons of a particular racial or ethnic group to take advantage of opportunities for doing that work under certain conditions.

10. **Ministers of religion:** it is proposed that an exception should be provided in the Bill for an organized religion to limit employment to a person from a certain racial or ethnic group for a job related to that religion, if the purpose of such restriction is to comply with the doctrines of that religion or to avoid offending the religious susceptibilities common to its followers.

11. **Immigration legislation:** it is proposed that the Bill should not

render unlawful any act done under any immigration legislation governing entry into, stay in and departure from Hong Kong.

Comments

12. We welcome Members' comments on the above proposed exceptions.

Home Affairs Bureau
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