

**SOCIETY FOR COMMUNITY ORGANIZATION
HONG KONG HUMAN RIGHTS COMMISSION**

**Increased discrimination against New
Immigrants and people from Mainland China
following
abolishment of 7-year residence requirement
for welfare applicants**

**Urgent appeal to the
United Nations Committee on Economic, Social and Cultural Rights**

April 2014

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Contents

1	Introduction.....	3
2	Background of the 7-year residence requirement for applying social security	3
3	Judicial Review on 7-year residing requirement on welfare application.....	4
3.1	The appellant’s circumstances 4	
3.2	The Final Judgment by the Court of Final Appeal	5
4	Implications on the Right to Social Welfare of the Hong Kong citizens	6
5	Opinions on the ruling from the Hong Kong society.....	7
5.1	Political parties.....	7
5.2	Local group concerning rights of local people.....	7
5.3	Mass media.....	8
5.4	Government and the Department of Justice	8
6	Actions taken by SoCO in response to the Opposition.....	8
7	Inadequate legal protection against racial vilification	9
7.1	Race Discrimination Ordinance (Cap. 602)	9
7.1.1	New immigrants or Mainlanders not included.....	9
7.1.2	Protection against vilification	10
7.1.3	Offence of serious vilification	10
7.1.4	Racial harassment	11
7.2	Hong Kong Bill of Rights Ordinance (Cap. 383).....	11
7.3	Public Order Ordinance (Cap 245).....	11
7.4	Telecommunications Ordinance (Cap 106).....	12
7.5	Broadcasting Ordinance (Cap 562).....	12
8	Recommendations.....	12

Appendices

Appendix 1: “Stern warning to anti-Mainlanders”, *The Standard*, 18/2/14

Appendix 2: “ ‘Locust’ protest tarnished city, says officials, *South China Morning Post*, 18/2/14

Appendix 3: “Criticism mounts over protest with legal action hint”, *The Standard*, 19/2/14

1 Introduction

The right to social security and adequate standard of living is one of the fundamental human rights as enshrined by the International Covenant on Economic, Social and Cultural Rights (ICESCR). In Hong Kong, for those who cannot support themselves financially, they can apply for the Comprehensive Social Security Assistance (CSSA) Scheme, which provides a safety net to them to meet their basic needs.

Apart from passing the means test, until end 2013 the welfare applicant also had to reside in Hong Kong for 7 years before the date of application. The 7-year residing requirement was introduced since January 2004 as the new population policy on the ground that it can prevent Hong Kong new immigrants from depending on public resource.¹ However, the assumption that leaving Hong Kong will waste the resource is irrelevant to the application of public welfare. In order to advocate for the abolition of the unjust requirement, member organization of Hong Kong Human Rights Commission (HKHRC), Society for Community Organization (SoCO) has conducted different social actions, including community organizing, action research, meeting with Government official as well as a legal challenge. The legal action was finally successful that the Court of Final Appeal in Hong Kong (CFA) found the rule is unconstitutional.

However, after the CFA judgment people from Mainland China have faced increased discrimination and political parties and other groups have strongly opposed the ruling.

This report will introduce the policy concerned, the case circumstance, opinions from the general public and challenges ahead.

2 Background of the 7-year residence requirement for applying social security

The new population policy, which was introduced in 2004, required the CSSA applicants resided at Hong Kong at least 7 years in order to be eligible for welfare application. As a result, family with new immigrant mother of less than seven years residence will not be entitled for the welfare. Most of them are single-parent families or families with chronic illness patient. They applied for CSSA as they could not find other helping resources. Without assistance from CSSA system, new immigrants with financial difficulty cannot survive in Hong Kong.

However, the Government adopted a stricter welfare policy for the new immigrants in order to screen out the poor new immigrants in its new population policy in 2003. The criteria of application for Comprehensive Social Security Assistance (CSSA) are changed from one-year residence to seven years residence. It takes effect on 1st January 2004. Although children are waived, their parent cannot access to CSSA. Most of them are mothers. It hindered the mother to take care of the children as the mother not only has no resources to help the children but also to share to use children's CSSA. In 2005, the Committee on Economic, Social and Cultural

¹ The Comprehensive Social Security Assistance (CSSA), formerly known as Public Assistance before year 1993, had introduced a residing requirement as an eligibility criterion since year 1948. The residing requirement for social security in 1948 is firstly 10 years, then shorted to 5 years in 1959 and further shortened to 1 year in 1971. Having implemented for 32 years, the 1-year residing requirement was increased to 7 years since 1 January 2004.

Rights (CESCR)’s concluding observations on Economic, social and cultural rights in the People’s Republic of China (including Hong Kong and Macao) said: “The Committee is seriously concerned that under the existing social security system, and in particular under the Comprehensive Social Security Assistance (CSSA), the levels of benefit are not sufficient to guarantee a decent standard of living and the many low-income persons, in particular older persons, are not covered by the scheme. The Committee is further concerned that new migrants are unable to apply for CSSA due to the seven-year residence requirement.”²

Although there is a policy for the Director of Social Welfare to exercise discretionary power to waive the 7 years residence rule, very few deprived cases benefited. According to official statistics from 1 Jan 2004 to July 2010, there are 24,199 cases of CSSA applications which do not qualify the 7-year residence rule, while only 33.0% (7,975 cases) of the cases were approved in the light of the exercise of discretionary power of Social Welfare Department.

Table 1. Number of cases which did not satisfy the 7-year residency rule of the CSSA by result of applications from January 2004 to July 2011

Case	Financial Year								Total no. of cases
	Jan to Mar 2004	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011 (until July)	
No. of applications	114	1,665	3,856	4,925	3,553	4,069	4,512	1,505	24,199
No. of cases granted	3	230	843	1,383	1,307	1,549	1,918	742	7,975
No. of cases rejected	1	18	26	33	39	35	30	12	194
No. of cases withdrawn	76	1,299	2,892	3,480	2,221	2,377	2,750	756	15,851

Even if the Social Welfare Department exercise the discretionary the grant the CSSA, the whole process lasted for over half a year which is inefficient and delayed the assistance. Worse still, there is an internal requirement that the CSSA recipient of the new immigrants woman, who are the significant carer of the child, has to work with monthly income of not less than HKD \$1,845 (USD 236) regardless the age of the child and the health condition of the father of the child. The child is inevitably left to be alone at home and lack of adequate care and support by the parent. It is also a discrimination against new immigrant single parent families as there is no any work requirement for those local single-parent families with children under 12 years old.

3 Judicial Review on 7-year residing requirement on welfare application

SoCO assisted a new immigrant woman to fight for equal access to public assistance (Public Assistance is named as Comprehensive Social Security Assistance (CSSA) for the new immigrants. The case was dismissed by High Court and Court of Appeal in 2009 and 2012. The case was heard by the CFA on 18 November 2013.

3.1 The appellant’s circumstances

The appellant Madam Kong, who was assisted by SoCO to lodge the judicial review, is a native of Guangdong province. She had previously been married but divorced her first husband in 1983. There were two sons of that marriage and they reside on the Mainland. In 2001, she met Mr Chan Wing, a Hong Kong permanent

² UN Doc E/C. 12/1/Add.107, para. 84.

resident, and married him in October 2003, having visited him in Hong Kong on a two-way permit on several occasions. Mr Chan was not a man of means. His health was not good and he had been a recipient of social welfare since 1985.

Madam Kong worked on the Mainland as a home helper for the elderly until 2005. She was unable thereafter to find work and, when granted a one-way permit by the Chinese authorities on 30 November 2005, she decided to come to settle in Hong Kong with her husband. She arrived here on 21 December 2005, then aged 56, and was granted permission to remain for seven years. She was duly issued with a Hong Kong Identity Card on 28 December 2005. She thereupon became a non-permanent resident of Hong Kong within the meaning of Article 24 of the Basic Law.

Sadly, her husband (who was aged 76) died on 22 December 2005, the day after she arrived in Hong Kong. In consequence, she found herself homeless, since the Housing Authority immediately repossessed her late husband's public housing unit. She was without family or friends in Hong Kong and was admitted to a shelter for street sleepers.

On 20 March 2006, Madam Kong applied for CSSA but was unsuccessful. Her application was refused because the Government's policy has, since 1 January 2004, been that persons who have resided in Hong Kong for less than seven years do not qualify for CSSA, save where, in exceptional circumstances, the Director of Social Welfare waives that residence requirement as a matter of discretion. The policy was aimed at Mainland immigrants. Madam Kong's case was not considered appropriate for the exercise of that discretion and her appeal to the Social Security Appeal Board against that decision was rejected.

3.2 The Final Judgment by the Court of Final Appeal

With the assistance of SoCO, the applicant decided to seek judicial review to challenge the constitutionality of the requirement. She was granted legal aid and instituted judicial review proceedings to challenge the Director's decision to reject her CSSA application on the ground that the imposition of the seven-year residence requirement is inconsistent with Articles 25, 36 and 145 of the Basic Law, as well as Article 22 of the Hong Kong Bill of Rights. On 23 June 2009, the Judge of the Court of First Instance dismissed her application for judicial review.³ His Lordship's decision was upheld by the Court of Appeal on February 2012 which rules that the 7-year residing requirement does not violate the constitution.⁴ SoCO then assisted the claimant of new immigrants successfully applied legal aid to appeal the case to the CFA and the leave to appeal is successfully obtained in December 2012.

The hearing was heard at the CFA on 18 and 19 November 2013. On 17 December 2013, the 5 judges of the CFA unanimously ruled that the 7-year residing requirement for apply social security is unconstitutional which breaches Article 36 (Right to Social Welfare) under the Basic Law.⁵ On the day of the judgment, SoCO organized a press conference to express the views of the plaintiffs and the impact on social welfare of the Hong Kong citizens. It is expected that the ruling will lead the increase of social welfare for an amount of less than 1 billion Hong Kong dollars each

³ *Kong Yiuming v. The Director of Social Welfare* [2009] 4 HKLRD 382.

⁴ *Kong Yiuming v. The Director of Social Welfare* CACV 185/2009.

⁵ *Kong Yunming v The Director of Social Welfare* FACV 2/ 2013,

year.

4 Implications on the Right to Social Welfare of the Hong Kong citizens

The judgment of the CFA not only has significant positive impact on the new immigrants but also to the entire society. It was the first time the Hong Kong courts reassured the right to social welfare of the Hong Kong citizens as enshrined by the Article 36 of the Basic Law that the Judiciary attempted to define the scope of right to social welfare and its applicability in the local context. Under the conventional approach of human rights, only the civil and political rights is treated as an alienable rights, while the economic and social rights are generally ignored and the Court is hesitated to intervene the administrative policy due to the limited public resources. The present ruling emphasized the importance of the right to social welfare by referring to the case laws of other common law jurisdictions that right to social welfare should be taken in serious consideration. Social welfare right is recognized as the fundamental human rights that all Hong Kong citizens should be entitled to enjoy regardless of year of residency or devotion to the society.

The CFA did not clearly define the term of social welfare under the Basic Law, while the Hong Kong Government should conduct a close examination for formulation or alternation of related social welfare policies by considering the following questions: (1) Does the public policy concerned fall into the scope of the right to social welfare as defined by the Article 36 of the Basic Law? (2) If so, does the public policy concerned comply with the requirements of “development” and “improvement” as stated under the Article 145 of the Basic Law? and (3) If so, in view of the economic conditions and social need, whether the proposed amendment of the public policy concerned pursues a “legitimate societal aim” and, having identified that aim, it asks whether the impugned restriction is “rationally connected” with the accomplishment of that end. If such rational connection is established, the next question is whether the means employed are “proportionate” or whether, on the contrary, they make excessive inroads into the protected right.

As far as the 7-year residing requirement for applying social security is concerned, the Court ruled that the policy concerned is limited the scope of Article 36 as a social welfare and the Government is entitled to introduced restrictions on applying society security in accordance with the Article 145 of the Basic Law. Although the 7-year residing requirement established since January 2004 has legitimate societal aim by promoting the financial sustainability of the social security system, while it does not rationally connected to the aforesaid legitimate societal aim. Moreover, the 7-year rule was wholly disproportionate and manifestly without reasonable foundation, given its contradictory policy consequences and socially insubstantial benefits. The landmark ruling clearly laid out the assessment mechanism for reviewing governmental policy to safeguard the social welfare rights of Hong Kong citizens.

Furthermore, in the absence of the domestic legislation of the ICESCR, it has been worrying that those rights stated cannot be legally protected by law. However, the ruling (paragraph 173 to 180) closely discussed the impact of the meaning of the ICESCR, its applicability in Hong Kong and accepted that “[t]he stricter test will include imposing a heavier burden on the Government to justify potentially retrogressive measures, and the need to show that alternative measures had been

carefully considered.”⁶ Moreover, the domestic court also took the General Comments of the United Nations Committee on Economic, Social and Cultural Rights which showed the importance of the International Covenants on protecting fundamental human rights of the people in Hong Kong.⁷ The ruling also indicates the rule of law was ensured and the fundamental human rights of an individual are protected under the independent judicial system in Hong Kong.

5 Opinions on the ruling from the Hong Kong society

5.1 Political parties

In view of the increasing conflicts between Hong Kong people and mainlanders from China, the judgment triggered a greater anger among local Hong Kong residents against new immigrants from the mainland China. Some local political parties strongly opposed against the court’s ruling. For example, the Liberal Party, which in support of economic liberalism, formed an Alliance against the abuse of social security, argued that the ruling will create a floodgate to enhance the abolishment of 7-year residing requirement of all kinds of public services, including application for public rental housing, etc.. It is worried that over billions of public reserve will be wrongly spent under the ruling.⁸ In addition, public survey was conducted by the political party which was found that over 82% of the respondents opposed against the ruling. While asking about the reasons of the opposition, around 40.5% of the respondent ruled that the ruling is not fair to the taxpayer, while 40.2% expressed that it will increase welfare burden of the society.⁹

5.2 Local group concerning rights of local people

In addition, different groups and individuals which discriminated against the new immigrants and mainlanders by arguing that the ruling would attract new arrivals depending on social welfare and lead to heavy public burden. Worse still, the rise of populism and nativism among the public is another big obstacles in the policy formulation and implementation. Due to the anger and dissatisfaction on current social development from local Hong Kong people, new immigrants from the Mainland China become the scapegoat of social problems. Some nativists and legislators even organized campaign to limit the entry of the new immigrants to Hong Kong and ignoring the right of family reunion, which is the basic human right that they have been hungering for decades.

Some radical views even proposed to stop allowing mainlanders visited Hong Kong. Such exclusionary view did draw some support from local people. For example, the State Society, a non-governmental organization stressed on the importance of protecting the rights of Hong Kong permanent residents, urged the

⁶ Paragraph 180 of the judgment of FACV 2/2013, extracted from the “Right to Welfare” chapter of *Law of the Hong Kong Constitution* (eds Johannes Chan and C L Lim) (2011) (Sweet & Maxwell) – a book cited by Lord Pannick in the course of argument (although not on this point) – Professor Karen Kong put it like this (at p.798, para 25.040)

⁷ Paragraph 179 of the judgment of FACV 2/2013.

⁸ Press Release (17 December 2013), Liberal Party, CFA ruling shocked the society Government urged to amend law immediately to fix the loophole

http://www.liberal.org.hk/index.php?option=com_content&view=article&id=886&mid=49&lang=en

⁹ Press Release (6 January 2014), Liberal Party, The announcement of the survey results on the problem of “Receiving the Comprehensive Social Security Assistance for residents living low than 7 years”

http://www.liberal.org.hk/index.php?option=com_content&view=article&id=900&mid=49&lang=tc

Government to amend the Basic Law in order to prioritize the interest of the permanent residents. Tremendous discussion on the internet was held and some organizations even advertised a discriminatory advertisement against new immigrants from mainland China urging the protection of rights of local people in Hong Kong.¹⁰

The criticisms not only focus on the new immigrants but also point a finger on the Judiciary. There are even some absurd critics which queried the judicial independence due to the ruling and the composition of the Judiciary and suggested if the judges of Hong Kong Judiciary should be elected by universal suffrage.¹¹

5.3 Mass media

Certain newspaper, like the *Apple Daily*, one of the leading newspapers in Hong Kong, criticized SoCO for taking political benefits from the court case. It is also commented that problem created the awareness of nativism of Hong Kong people. It is recommended that the Government should amend the Basic Law, take back the power of immigration control by gaining the authority of approval of One Way Permit so prevent new immigrants from settle at Hong Kong. The column even proposed to disregard the concept of social integration between Hong Kong and the mainland China and establish a native ideology instead.¹² The prejudice and conspiracy against new immigrants from mainland China were further magnified by the mass media which chooses what suit their editorial line, while it was generally supported by the general public.

5.4 Government and the Department of Justice

Facing the wide-spreading criticism in the society, the Hong Kong SAR Government merely re-stated that it would follow the ruling of the Court and review the residence requirement of other social policies. The Government did not state to the public on explaining the myth of creating heavy financial burden due to the judgment and did not educate the general public for not discriminating the new immigrants in the mainland China.

As for the criticism against the Judiciary, the Secretary for Justice declared that appropriate discussion or even criticism of judicial decisions is one thing, while abusive attacks and unwarranted conduct which would undermine the independence of the judiciary and public confidence in the administration of justice are totally different. The Secretary for Justice quoted the observation by Sir Anthony Mason observed that the courts "should not be made a target of irresponsible criticism. Public confidence, which is vital to the well-being of the administration of justice, once lost or damaged, is not easily restored."¹³

6 Actions taken by SoCO in response to the Opposition

The hostile political tension and populism existed in the entire society become an

¹⁰ am 730 (15 January 2014) Page 31, Advertisement by State Society

¹¹ Mingpao Daily News (2 January 2014) Forum, But Sau Yin, *Who will be responsible for monitoring the Judiciary?*

¹² Apple Daily (18 December 2013) Court of Final Appeal ruling bring a new awareness of nativism of Hong Kong people.

¹³ Department of Justice, Hong Kong SAR Government, Secretary for Justice (13 January 2014), *Secretary for Justice's speech at Ceremonial Opening of the Legal Year 2014*.

unfavorable factor to SoCO's work. When attempting to lobby different social policy reform with the Government officials and stakeholders, SoCO encountered political risks to be scapegoated as the enemy of the interest of the Hong Kong people. Moreover, the campaign on anti-discrimination legislation against new immigrants will become more difficult to be implemented.

In order to explain the positive impact of the judgment on the fundamental human rights of Hong Kong citizens, SoCO actively attended public forum, received interviews from mass media and an article was submitted to the forum of the news agency, while wide spreading criticism against SoCO and new immigrants remained serious.¹⁴ Worse still, during the mass demonstration of New Year's Day of 2014, SoCO staff was surrounded by over hundred people with opposing view who have a humiliating attitude and foul language to criticize SoCO.¹⁵ A press release was released immediately to criticize the misbehavior and a rational discussion on the impact of the ruling was urged for. Moreover, the Facebook of SoCO colleague was attacked by over 1,000 negative comments, including foul language, phrases of intimation and even criminal intimation to the personal safety of the staff and the family relatives.

To arouse public concern over the incident, SoCO organized a press conference on 17 January 2014 to re-state SoCO position on criticism among the society and reported to the police in order to re-state the importance of respect different opinions.¹⁶ In addition, 21 legislative councilors from the pan-democratic camp were coordinated to release a joint declaration on 17 January 2014 to show their support on the judgment of the CFA.

On 21 March 2014, SoCO organized new immigrants to petition the Equal Opportunities Commission. The EOC has stated that it is considering how to propose legislation to protect new immigrants against racial discrimination. It is now reviewing the 4 pieces of anti-discrimination legislation, considering to use appropriate legal terms, e.g. by adding "person's origin", "date of arrival", "immigration status" or "immigration purpose", to describe the situations in order to protect Mainland Chinese people and new immigrants¹⁷

7 Inadequate legal protection against racial vilification

Although there is some legislation to protect against racial vilification, this does not apply to discrimination against Mainland Chinese people by Hong Kongers.

7.1 Race Discrimination Ordinance (Cap. 602)

7.1.1 New immigrants or Mainlanders not included

The government has excluded the Mainlanders or new immigrants from Mainland China from the Race Discrimination Ordinance. It does not recognize immigration status as a basis of race discrimination nor does it recognize new immigrants as a separate ethnic group.

¹⁴ Mingpao Daily News (2 January 2014) Forum, HO Hei Wah, Director, Society for Community Organization, *The ruling of the Court of Final Appeal is the champion of Hong Kong people*

¹⁵ South China Morning Post (2 January 2014) *Protest march loses steam*, P03

¹⁶ South China Morning Post (18 January 2014) *Death threats after migrant welfare ruling*, City 4

¹⁷ Letter from the EOC to Society for Community Organization 31/3/14 (EOC/NET/58)

The government has emphasized that racial discrimination only refers to discrimination on the ground of race, colour, descent, national or ethnic origin. It has attempted to exclude new immigrants from the RDO in section 8(2)-8(3), where it is stated that:

“(2) An act done on the ground of any matter specified in subsection (3) does not constitute an act done on the ground of the race, colour, descent or national or ethnic origin of a person; and section 4(1)(b) does not apply to a requirement or condition as to any matter specified in subsection (3).

(3) The matters specified in this subsection are—

(a) that the person—

(i) is or is not a Hong Kong permanent resident;

(ii) has or has not the right of abode or the right to land in Hong Kong;

(iii) is or is not subject to any restriction or condition of stay imposed under the Immigration Ordinance (Cap 115); or

(iv) has or has not been given the permission to land or remain in Hong Kong under the Immigration Ordinance (Cap 115);

(c) the length of residence in Hong Kong of the person; or

(d) the nationality, citizenship or resident status of the person under the law of any country or place concerning nationality, citizenship, resident status or naturalization of or in that country or place.

During discussions of the Race Discrimination Bill, the Hong Kong SAR Government stated clearly that the status being an immigrant from Mainland China is not considered as a ground of discrimination because the new immigrants were viewed as being of the same ethnic group as local Chinese. The Government explained that the discriminatory treatment experienced by new immigrants is based on *social* rather than racial grounds.

7.1.2 Protection against vilification

Protection against vilification is provided for in section 45 and 46 of the Race Discrimination Ordinance (RDO). Section 45 states that “[it] is unlawful for a person, by any activity in public, to incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of the race of the person or members of the class of persons.” Race is defined as the “race, colour, descent or national or ethnic origin of the person” (RDO Section 8 (1)(a)).

It is worth noting that section 45 only renders such acts unlawful, but not criminal. Thus it is subject to the same range of civil remedies as racial discrimination, but it does not make it a criminal offence. In comparison, under the United Kingdom’s Public Order Act 1986 racial vilification is a criminal offence and offenders may be penalized by up to seven years imprisonment¹⁸.

7.1.3 Offence of serious vilification

Section 46 of the RDO states that a person commits an offence if he intentionally

¹⁸ Public Order Act 1986 (UK) c 64 ss 27 (3)(a).

and incites hatred towards another person on the ground of race in public and that this activity consists of threatening physical harm or incites others to threaten physical harm towards persons or premises or property of that person.

It is worth noting that such acts are subject to a maximum fine at level 6 and to imprisonment of maximum 2 years.

7.1.4 Racial harassment

Under the RDO racial harassment is unlawful in the areas of employment; education; provision of goods, facilities or services; disposal or management of premises; elections; pupilage/tenancy in barrister's chambers; participation in clubs. It is worth noting that such behavior is subject to civil penalties, but not considered a criminal offence.

In contrast in the United Kingdom, racial harassment is both unlawful and a criminal offence. Thus under the Crime and Disorders Act 1998 (UK) it is a criminal offence to pursue a course of conduct which amounts to harassment and which is motivated by racial hostility.

7.2 Reservation in ICCPR

Although the provisions of ICCPR apply to Hong Kong there is a specific reservation worth noting in this connection. "The Government of the United Kingdom interpret Article 20 consistently with the rights conferred by Articles 19 and 21 of the Covenant and having legislated in matters of practical concern in the interests of public order (ordre public) reserve the right not to introduce any further legislation."

7.3 Hong Kong Bill of Rights Ordinance (Cap. 383)

The aim of the Hong Kong Bill of Rights Ordinance (BORO) is to provide for the incorporation of provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong. Given the above reservation, it is important to note that article 20, para. 2 of ICCPR has not been incorporated into BORO. That article states that "[any] advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

It is highly recommended that BORO be amended in light of the recent developments in Hong Kong where differences between Hong Kongers and Mainlanders have been racialized.

7.4 Public Order Ordinance (Cap 245)

Under section 14 of the Public Order Ordinance, the Commissioner of Police may object to a public procession being held if he reasonably considers that the objection is necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others.

However, the Public Order Ordinance does not specifically refer to racial vilification and it is therefore doubtful whether a public procession that propagates hatred towards a certain race would be stopped by the Commissioner of Police.

In comparison, under the UK Crime and Disorders Act 1998 racially or religiously aggravated public order offences are included.

7.5 Telecommunications Ordinance (Cap 106)

Under section 13M of the Telecommunications Ordinance (Cap 106), a licensee shall not broadcast any programme which is likely to incite hatred against any group with reference to colour, race, sex, religion, nationality or ethnic or national origins.

It is worth noting that incitement of hatred against a group with reference to descent has not been included in the Telecommunications Ordinance, as opposed to the RDO where race includes race, colour, descent or national or ethnic origin of the person.

7.6 Broadcasting Ordinance (Cap 562)

Under the Broadcasting Ordinance a licensee shall not include in its licensed service a television programme, or any part thereof, that is likely, in Hong Kong, to incite hatred against any group of persons, being a group defined by reference to colour, race, sex, religion, nationality or ethnic or national origins.

8 Recommendations

- a. The Hong Kong SAR Government should fill the legislative loopholes in order to protect people from Mainland China against vilification, by amending the Racial Discrimination Ordinance, Bill of Rights and the Public Order Ordinance**
- b. The government should promote awareness of racial equality and promote understanding of the contents of the CFA ruling.**

OUTRAGE AT PROTESTERS WHO TARGETED SHOPPERS

STERN WARNING TO ANTI-MAINLANDERS



Security secretary Lai Tung-kuok, left, and political chief Raymond Tam condemned the protesters who targeted mainlanders in Canton Road on Sunday. Left, how *The Standard* reported the protest.

Kelly Ip

Police are prepared to arrest protesters who humiliated mainland shoppers in Tsim Sha Tsui on Sunday.

"It's extremely regrettable," Secretary for Security Lai Tung-kuok said yesterday.

"The behavior of the protesters not only caused a disturbance for tourists but also shocked and insulted [them]."

About 100 people who responded to an online call to rally in support of controls on the number of mainland tourists entering the SAR had gathered at the Star Ferry on Sunday afternoon.

But troubles followed as they ran into several dozen members of pro-Beijing groups while heading to shops along Canton Road.

Mainland shoppers kept their heads down and stayed inside stores as the rival groups traded abuse and scuffled.

Still, the police mostly kept the groups apart by setting up barriers.

Lai did not mention the pro-Beijing groups as he pointed out that all citizens have a right to express their opinions while staying within the law and respecting the rights of others.

But Sunday's action, he said, "caused scenes of chaos, which damaged public order and social stability. The police are reviewing the case and will follow it up."

Members of the protest group could have breached the law with their improper actions in a public place, he added, and that could mean up to 12 months in prison and a fine of HK\$5,000.

But Ronald Leung Kam-shing, who organized the protest, was unrepentant and asked what could follow in the push for curbs on

the number of visitors - accused of crowding locals out of shops and off public transport.

"The government has neglected our demands," he said. "Does it mean citizens who voice their concerns in future will face criminal investigation?"

Senior counsel and lawmaker Ronny Tong Ka-wah said the police would have to prove the protesters had used threatening or humiliating words to prosecute people.

Meanwhile, other top officials joined Lai yesterday in condemning Sunday's action.

Some of the strongest condemnation came from Secretary for Constitutional and Mainland Affairs Raymond Tam Chi-yuen.

The scenes he saw on television "shocked me," he said.

"I believe such behavior, which is barbaric and uncivilized from my point of view, is against our core values."

Chief Secretary for Administration Carrie Lam Cheng Yuet-ngor said such behavior should not be tolerated, but stressed it does not represent the views of the majority of citizens.

Secretary for Commerce and Economic Development Greg So Kam-leung said anti-tourist acts are intolerable and the scenes "should not be repeated."

Instead, So said, "we hope citizens can maintain the hospitable spirit, continue to welcome tourists and make them feel at home."

Across the border, the state-run *Global Times* quoted He Maochun, director of the Research Center for Economic Diplomacy Studies at Tsinghua University, as saying the protest action showed free speech in Hong Kong can be anything but dignified.

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POLITICS

'LOCUST' PROTEST TARNISHED CITY, SAY TOP OFFICIALS

Chief secretary and ministers condemn march calling for curbs on visitors as 'humiliating' for mainlanders and a stain on Hong Kong's image

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Four top government officials have attacked Sunday's "anti-locust" protest, saying it humiliated mainland visitors and tarnished the city's image.

Chief Secretary Carrie Lam Cheng Yuet-nger condemned the protesters for disrupting public order, "directly affecting" the relationship with the mainland and harming the tourist industry.

"We will absolutely not tolerate it if such events happen again," said Lam. "I believe such behaviour belongs to only a few extremists and definitely does not represent most citizens' opinions and their values."

Commerce minister Greg So Kam-leung and security minister Lai Tung-kuok also condemned the demonstration, while constitutional and mainland affairs minister Raymond Tam Chi-yuen said the "barbaric and uncivilised activities" ran against Hong Kong's values.

So said: "The harassment of the tourists on Canton Road is very regrettable. We strongly



Carrie Lam

condemn this sort of action." About 100 protesters called on the government to curb the number of mainland visitors. They called tourists "locusts" for overwhelming the city and hogging its resources and were referred to as *Shina*, a derogatory term used by the Japanese against the Chinese after the first Sino-Japanese war ended in 1895.

The protesters marched from the Star Ferry pier to Canton Road, a street lined with luxury stores popular with mainland tourists. Police intervened after scuffles broke out between the demonstrators and passers-by opposed to the march.

So said: "The government understands that growth in the number of tourists has a certain level of impact on the lives of Hongkongers. But tourism has contributed a lot in creating job opportunities. It makes up 4.5 per cent of our economy."

Lai said the police would determine whether anyone should be prosecuted for disorderly behaviour. "Suitable action will

be taken if [the police] have sufficient evidence," Lai added.

But protest convenor Ronald Leung Kam-shing, 37, said he would not be intimidated by the criticism. He said: "I will continue to organise such campaigns because the ministers' remarks today have shown they have ignored the public's demand for a curb on mainland tourists."

He admitted calling the mainland tourists "locusts", but said he did not refer to them as *Shina*. He did not think either term was discriminatory.

William Wong Wai-sheung, chief executive of the Lukfook jewellery chain, said its Tsim Sha Tsui store was forced to close for 10 minutes by the protest. He said tourists lost their desire to make purchases because of it, and estimated he suffered a loss of HK\$500,000 in sales.

The Equal Opportunities Commission condemned the protesters' "contemptuous and vilifying remarks" and said they had raised social tensions.

But a spokeswoman said the "locusts" and *Shina* remarks fell outside the purview of the Race Discrimination Ordinance, as Hongkongers and mainlanders are of the same race.

Additional reporting by Shirley Zhao

> MY TAKE A2
> EDITORIAL A12

Criticism mounts over protest with legal action hint

Kelly Ip

Chief Executive Leung Chun-ying has joined a mounting chorus of criticism over last Sunday's protest against mainland visitors.

The Tsim Sha Tsui protest turned rowdy when scuffles broke out between the protesters and pro-Beijing groups backing tourism, forcing police to step in.

Leung said any behavior that is a nuisance to tourists should be condemned and that "the government will follow up the incident according to the law."

He added: "The group that caused a nuisance on Canton Road only represents a very small section of the community. The community at large realizes that tourism is a major sector of the economy and provides a large number of job opportunities, particularly for lower skilled workers."

The government, he admitted, realizes there is a

need to curb the number of arrivals, pointing out it had stopped a plan by Guangdong to allow non-registered residents on multiple visits.

Leung's comments came as the Hong Kong Tourism Board reported that more than 54 million people — 40 million from up north — visited last year, a rise of nearly 12 percent.

It predicted visitor numbers will further increase to 59 million this year, with 70 percent of them from the mainland.

Board chairman Peter Lam Kin-ngok said the number of hotels and tourist attractions should be increased to meet the surge.

The initiator of Sunday's "anti-locust" protest, Ronald Leung Kam-shing, said there was no intention to humiliate mainland visitors. He expects to be prosecuted along with another protest initiator.

A spokesman for one of the pro-Beijing groups,

Voice for Loving Hong Kong, said there have been too many demonstrations in the SAR.

Ko Tat-bun also disagreed with suggestions that condemnation of Sunday's protest by Leung and his Cabinet amounted to political suppression.

State-run *Global Times* said the behavior of the protesters was "nearly fascist."

"Citizens from two lands are from the same origin. How dare they treat mainland visitors in this way, and instigate Hong Kong against the mainland?" it said.

National People's Congress Standing Committee member Rita Fan Hsu Lai-tai also criticized the protest, saying it could only do harm without self-gain.

The Hong Kong and Macao Affairs Office of the State Council expressed concern about the incident and said it supports the SAR government in handling the matter according to the law.

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Peter Lam said more hotels and attractions are needed to meet a surge of mainland tourists, inset, who numbered 40 million last year. SINGTAO



