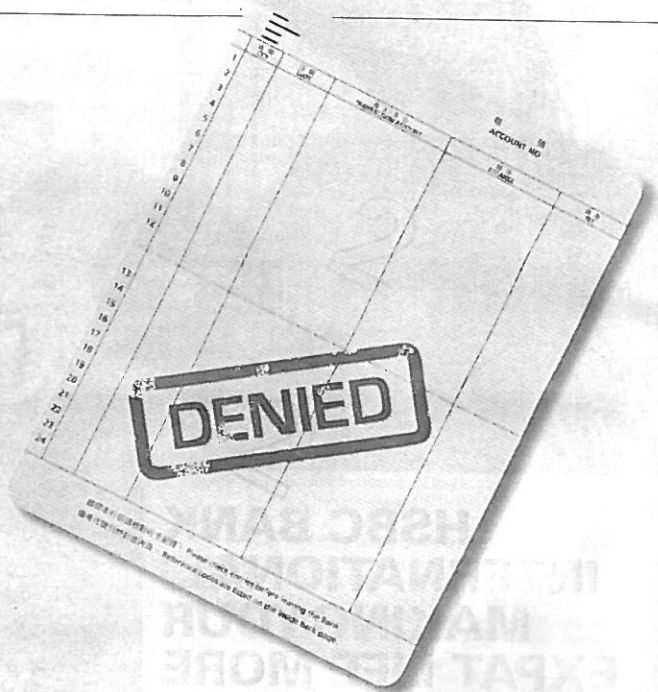


Equality? Don't Bank On It

Hang Seng Bank recently refused to allow Pakistanis in Hong Kong to open bank accounts because of Pakistan's link with terrorism. **June Ng** asks why the new racism law isn't helping them.



It's something most of us take for granted, but for Bibi and her mother, the simple task of opening a bank account has proved a frustrating struggle. Bibi was born and raised in Hong Kong and her mother has lived here for more than 20 years. They both have permanent residency, and both Pakistani and British National (Overseas) passports. Two months ago, her mother got a new job and wanted to open a Hang Seng Bank account, but unlike average Chinese Hong Kongers, who only need to submit their ID card, proof of address and the required sum of money, the teller at Hang Seng Bank asked whether she was Indian or Pakistani. "Then the teller asked if my mother still holds a Pakistani passport," recalls Bibi. "When my mom said yes, the member of staff told her that she was being rejected because 'Pakistan is a terrorist country' and they have to prevent cases of money laundering for terrorists." What is even more preposterous is, Bibi herself was once told to just put "Chinese" as her nationality in order to speed up the process when opening a bank account a few years before, something she is uncomfortable with now that she knows the reason why. "It's unfair because we are Hong Kong residents, just like local Chinese," she says. "My mom doesn't even use her Pakistani passport anymore—it's been lying at the bottom of a drawer for 20 years."

Bibi and her mother are not the only cases. They are just two among the 50 non-Chinese people that local ethnic minorities concern group Unison has been helping with similar problems over the past few months. According to Unison's director Fermi Wong, similar incidents have happened to other Pakistanis such as the bank requiring them not only to submit employment letters, identification and proof of address, but also their parents' marriage certificates and even their high school reports. And yet there is still no guarantee the application will be successful.

We wonder just how this can be possible in the "Asia's World City." And what about the Racial Discrimination Ordinance (RDO) which came into effect last July? Wasn't this anti-discrimination law supposed to make unfair treatment on the grounds of race unlawful?

The truth is, it is technically not illegal to discriminate against people based on their nationality (i.e., the passport you hold). A statement from the Equal Opportunities Commission (EOC) clearly says that the RDO "does not apply to discrimination on the grounds of 'nationality'—an obvious blind spot.

According to the current ordinance, the term "race," in relation to a person or group of people, refers to ethnicity, color, descent, or national or ethnic origin. "National origin," in the law, is not the same as "nationality" (the passport you hold). The Constitutional and Mainland Affairs Bureau, which drafted the ordinance, says they do not see the need to cover nationality in the definition because it will not "narrow the definition

of race." This is yet another area where our government—as with our unique Air Quality Objectives—chooses not to follow international standards. The Hong Kong government's definition of "racial discrimination" is not consistent with the United Nations' Committee on the Elimination of All Forms of Racial Discrimination (CERD). CERD has strongly recommended our government include not just nationality, but also regard language and immigration status when formulating a definition.

So going back to the case of Bibi and her mother, Hang Seng Bank is not technically discriminating against Pakistanis as a race, but they are discriminating against those with Pakistani passports. Fermi Wong, the director of Unison, says the tellers at Hang Seng Bank are most likely making the decision based on an internal guideline. The Financial Action Task Force on Money Laundering, an inter-governmental organization that aims to stop the financing of terrorists by money laundering, which Hong Kong is a member of, states there are concerns about the risks of money laundering and the financing of terrorists from Pakistan. But the Task Force has not issued any guidelines of denying application of Pakistani passport holders from opening bank accounts.

However, when questioning the tellers at Hang Seng Bank on why they rejected applications from Pakistanis, Fermi Wong saw the tellers reading from a piece of paper that looked like a guideline but they refused to show it to her. The Monetary Authority (HKMA) and Hang Seng Bank said they did ask banks to prevent terrorists from investing or money laundering in Hong Kong, while Hang Seng told Wong there is no such guideline and there might have been some misunderstanding among front counter staff. The bank also released a statement to reaffirm this, saying there has never been any internal guideline to prohibit nationalities of any kind from opening an account.

Not being able to open a bank account can be a big problem for ethnic minorities, according to Wong. She says they might lose their original job offer because they cannot receive their salary by auto-payment, which most employers use. "If the employers know the person can't get a bank account or need to wait a month for them to have it, they may think it's too much trouble and not hire them." But it is not only Hang Seng Bank who has this problem. Next Magazine ran an undercover investigation into other banks and found that Standard Chartered Bank also asked the Pakistani undercover reporter for lots of documentation as proof and took at least seven days to open an account, while the Bank of China actually said to him it will not open accounts for Pakistanis.

The most disappointing part of all this is how the EOC—the only official watchdog in Hong Kong to uphold the anti-discrimination laws—can turn a blind eye to this problem. When the issue was first reported by a Cable News program, the EOC

simply stated that the bank's action was not unlawful because nationality was not covered in the ordinance. But after the news broke, the EOC is now saying the bank's action "would amount to race discrimination if the evidence in a particular case shows that nationality is not the real reason but race is," and hence they are now looking into the case. In other words, the EOC is looking at "nationality" only as a legal status, but not so much as a person's national origin.

A EOC spokesperson explained to HK Magazine that the confusion of their stances is "merely a misunderstanding."

Legislator James To criticizes the EOC for its insensitivity and slow reaction. "There's no reason for banks to turn down everyone from a certain nationality," he says. "And aren't we supposed to use financial and criminal intelligence to prevent such crimes [as money laundering] from happening?" Wong also criticizes the banks' action as "sinful." "They basically assume all Pakistanis are terrorists and that they're all involved in money laundering," she says.

The way to move forward and prevent similar incidents from happening is, of course, to have a more inclusive anti-discrimination law blocking the loopholes. This is the result ethnic minorities and their concern groups are ultimately aiming to achieve, but with the current gray zones also protecting the government from falling foul of these so-called anti-discrimination laws (see box, below), change is unlikely to happen soon. ■

Human rights group Unison: "They [the banks] basically assume all Pakistanis are terrorists and that they're all involved in money laundering."

Above the Racism Law

One loophole of the racism law that has been under constant criticism is the fact that the government is exempted from it. "The government itself is the biggest discriminator," says James Lung, the chairman of the Southern Democratic Alliance, a group helping the ethnic minorities in the Yau Tsim Mong area. "Take schooling for example, there are only 19 designated schools for ethnic minority students, meaning that other schools can reject them for no reason. How can this not be counted as discrimination?" Wong from Unison further adds that employers can turn down qualified applicants if they are not holding "the required passports" even though they have every right to work and stay in Hong Kong. The United Nations Committee of the Elimination of All Forms of Racial Discrimination will conduct a follow-up report on the anti-racial discrimination law in Hong Kong when it has been in effect for one year.