INTEGRATING MINORITIES THROUGH LEGISLATION: A CHINESE POINT OF VIEW

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1. Introduction

This article explores China’s law and practice of integration specifically in the context of anti-discrimination legislation. To accomplish this, it first looks at international instruments and compares international anti-discrimination instruments to Chinese domestic legislation. It then scrutinizes China’s minority-specific anti-discrimination laws and practice and evaluates them. Discrimination in civil service examinations is singled out in particular and analyzed through empirical data. The reasons for discrimination are explored so that possible solutions may be better understood. Finally, the author recommends detailed integration legislation that covers different types of discrimination and provides concrete remedies and appropriate promotional measures as the best options for integrating all minorities in contemporary China.

2. The Special Vulnerability of Minorities

Minorities are easily isolated and discriminated against by the majority because of their ethnic, linguistic, religious or cultural differences. Integrating minorities by prohibiting discrimination and by adopting promotional measures through law not only advances the goal of integration, but also improves the relationship between groups and increases the political, economic, and social benefits for society as a whole.

Minorities, because of their physical, cultural, and linguistic differences from the majority, cannot always integrate into the larger society easily. States, because of the sensitivity surrounding minority issues, are very careful in making minority-related policies. As pointed out by Asbjørn

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Eide, “When one looks around at contemporary practices, one can observe that policies of government towards minorities fall into three categories: assimilation, integration, or separation and exclusion.”

As state imposed assimilation, separatism, or exclusion is prohibited under international law, integration and pluralism are the main policies and trends in international and even in domestic legal regimes. Most international instruments implicitly or explicitly state that, “positive measures of integration (but not assimilation) can best serve the protection of minorities.” These instruments have explained integration as policies that respect the language, religion, and cultural rights of minorities, and give them equal access to public and private services without discrimination, while offer them with promotional measures such as capacity building training, encouragement of political participation by minorities, and preferential treatment in education for expelling discrimination and strengthening integration of them into main society. In this respect, anti-discrimination is integral to integration.

3. An Overview of Legislation and Integration of Minorities in China

With the development of China’s economy, China has increasingly become an active member within the international community economically, politically, and even legally. China has achieved this not only by actively participating in many international treaties, but also by signing and ratifying them. During 2010, China signed and ratified more than twenty international human rights treaties, many dealing with non-discrimination, and many of which have been incorporated into national law through legislation.

China has also followed international regimes in integrating its ethnic minorities by observing the principles of equality and non-discrimination. China has not only outlawed discrimination against minorities through general national legislation, but has also done so through promulgating special laws and regulations which aim at the protection of minority

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