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Regional Discrimination as a Quasi-form of Racial Discrimination: Comparing the Protection Under Anglo-American, International and Chinese Laws

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REGIONAL DISCRIMINATION AS A QUASI-FORM OF RACIAL DISCRIMINATION: COMPARING THE PROTECTION UNDER ANGLO-AMERICAN, INTERNATIONAL AND CHINESE LAWS

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I. INTRODUCTION

Regional discrimination is a problem in many different countries. This invidious act is based on a person's regional origin, which is an immutable trait and has nothing to do with one's ability to contribute to society. However, regional discrimination has not been addressed by the anti-discrimination laws currently in place in the United States and the United Kingdom. This article seeks to explore this issue from two perspectives.

First, this article explores whether it is possible to remedy the absence of direct protection by fitting regional discrimination within the scope of current anti-racial discrimination laws. There can be both significant *conceptual* and *statistical* overlap between race and region. Conceptually, for example, the term "White trash" is premised on the rural-urban region divide, so it is about regional discrimination. But there is also a racialized element in the emphasis of "White". Even though the term "White trash" does not include all White people, but singles out only rural White people, it is difficult to ignore the intra-racial dynamics involved between urban White people and rural White people. There is an inseparable overlap between race, class, and region. Statistically, regional discrimination becomes even more akin to racial discrimination especially in regions or countries, which are less racially diverse (i.e. with the population substantially composed of the same race). Depending on the circumstances, regional discrimination can resemble racial discrimination.

As "region" is legally distinct from race, it is not possible address regional discrimination by filing suit for direct racial discrimination. The only option is to contend *indirect* discrimination, in the sense that the regional discrimination has a disparate impact of (intra- or inter-) racial discrimination. Such a claim can cover limited circumstances.

Second, this article highlights China's protection against regional discrimination and evaluates the Chinese laws' scope and gaps in protections. The Chinese policy-making process usually tests the feasibility of a socio-legal policy by first experimenting with small-scale implementation, and, if the small-scale implementation is successful, then full implementation of the policy. Therefore, the fact

that this prohibition was introduced in 2019 and affirmed again in 2022 crucially indicates its effectiveness and suitability. In other words, the tested Chinese approach is ripe for academic consideration and is highly noteworthy for other countries. It is argued that dealing with regionalism helpfully avoids raising any politically incorrect suggestion of quasi-intra-racial discrimination.

One possible reason for the absence of protection in Anglo-American jurisdictions is the inaction of international law (and insufficient attention from international academia). Such inattention undermines the perceived urgency and importance of regional discrimination. However, the Chinese approach reminds us that there is no need to wait for international law when the problem deserves immediate attention and action.

II. REGIONAL DISCRIMINATION

A. THE LACK OF PROTECTION IN THE U.S.

Regional (or "subnational") discrimination happens in the U.S. amongst people from different states or regions. It can, for example, be based on a person's accent, and there has been discrimination against those with "Southern American English".[1] Diaz has succinctly summarized the situation:

> Discrimination *within* the United States is not a new phenomenon. For centuries, Americans have discriminated against one another because they

1. *See* Katherine D. Kinzler & Jasmine M. DeJesus, *Northern = Smart and Southern = Nice: The Development of Accent Attitudes in the United States,* 66 Q. J. EXPERIMENTAL PSYCH. 1146, 1156 (2013) ("even school-aged children in both the Northern and Southern US endorse linguistic stereotypes and think of Southern speech as being 'less smart' suggests that accent-based social bias is early-forming and consequential"); *see also* Sarah Todd, *Have a Strong Accent? Here's How that Hurts Your Paycheck*, QUARTZ (Feb. 18, 2020), https://qz.com/work/1797510/why-workers-with-regional-accents-make-less-money (reporting the empirical observation of older TV shows where the Southern accent was used as "a shorthand that someone was stupid"); *see also* Kristen Adaway, *Americans Can't Get Enough of Southern Accents, Despite the Stereotypes*, HUFFPOST (Aug. 7, 2018), https://www.huffpost.com/entry/americans-love-southern-accents_n_5b5f6cffe4b0de86f499dd11 ("Some accents — such as Southern ones — can be associated with negative stereotypes . . . research conducted in 2013 with adults and kids as young as 10 showed that Americans said they think people with Southern accents are not as smart as those with Northern accents.").

> come from different parts of the country. Northerners have been derogatorily referred to as "Yankees," Southerners as "rednecks," Appalachians as "hillbillies," Californians as "hippies" and "Valley girls," and Native Americans as "red skins." Such discrimination has had particularly adverse consequences in the employment context due to the assumptions employers draw from these regional identities. For example, Southerners are frequently seen as less competent, intelligent, and educated.[2]

Rhee and Scott revealingly describe this stereotyping act as "geographic" discrimination or "locational" prejudice, which is just as evil as racism and sexism.[3]

This form of discrimination often overlaps with race and national origin, although this is not always the case. It has happened to people of the same race or national origin but from different domestic regions. In one case, a British litigant sued a British colleague while both worked in the U.S.[4] Clearly, regional discrimination does not only happen amongst U.S. citizens; it also happens between foreign citizens who reside in the U.S. Therefore, the topic of regional discrimination is particularly important for upholding the much-cherished cosmopolitan culture. At the same time, this issue has an internationalized nature given the prevalence of expatriates, international study, etc., which would welcome a comparative approach employed in this article.

Racial discrimination is prohibited under U.S. law,[5] and American

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2. Jacqueline Grace Diaz, Comment, *The Divided States of America: Reinterpreting Title VII's National Origin Provision to Account for Subnational Discrimination Within the United States*, 162 U. PA. L. REV. 649, 650–51 (2014).

3. William Rhee & Stephen C. Scott, *Geographic Discrimination: Of Place, Space, Hillbillies, and Home*, 121 W. VA. L. REV. 531, 595 (2018).

4. *See* Dollman v. Mast Indus., Inc., 731 F. Supp. 2d 328, 335 (S.D.N.Y. 2010) (where "the alleged discriminator from Birmingham in west-central England targets a victim because she is from the county of Essex, northeast of London" and the victim is a British citizen working in the U.S.).

5. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a) (providing it is unlawful "for an employer . . . to fail or refuse to hire . . . or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race."); *see* Iris Hentze & Rebecca Tyus, *Discrimination and Harassment in the Workplace*, NAT'L CONF. OF STATE LEGISLATURES, https://www.ncsl.org/labor-and-employment/discrimination-and-harassment-in-the-workplace (discussing other anti-racial

anti-discrimination protections extend to same-race discrimination.[6] Discrimination based on "national origin" is also outlawed.[7] However, both "race"[8] or "national origin"[9] do not legally cover regional discrimination. "National origin" in this context refers to foreign countries but not individual states within the U.S.[10] In other words,

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discriminatory provisions in federal and state laws).

6. *See* Ross v. Douglas Cnty., 234 F.3d 391, 396 (8th Cir. 2000) (holding that, in the employment context, "[g]iven the *Oncale* decision, we have no doubt that, as a matter of law, a black male could discriminate against another black male 'because of such individual's race." The court observed, on the facts, that the supervisor at work used racial epithets against the complainant of the same race, and that derogatory words like the n-word or "black boy" would not have been used but for the victim's race; therefore, this exceeded mere incivility and amounted to discrimination.); Oncale v. Sundowner Offshore Servs., Inc., 523 U.S. 75, 78 (1998) ("in the related context of racial discrimination in the workplace this Court has rejected any conclusive presumption that an employer will not discriminate against members of his own race"); *see also* Abigail L. Perdue & Gregory S. Parks, *The Nth Decree: Examining Interracial Use of the N-Word in Employment Discrimination Cases*, 64 DEPAUL L. REV. 65, 72–77 (2014) (citing other employment cases that successfully established same-race discrimination under Title VII and were tried by jury, such as Weatherly v. Alabama State University, 728 F.3d 1263 (2013) and Johnson v. Strive East Harlem Employment Group, 990 F. Supp. 2d 435, 442 (S.D.N.Y. 2014)); Wilson v. McClure, 135 F. Supp. 2d 66, 69 (D. Mass. 2001) (sports industry context); *see also* Mitchell v. Nat'l R.R. Passenger Corp., 407 F. Supp. 2d 213, 236 (D.D.C. 2005) ("Intra-racial discrimination is actionable under § 1981.").

7. § 2000e-2(a).

8. Lindsay E. Leonard, *Damned Yankees: Restrictive Covenants that Discriminate Against Geographic Origin*, 2 CHARLESTON L. REV. 671, 688 (2008) ("The Court likely would not be willing to define race according to geographic origin. This interpretation would exponentially expand the meaning of racial classifications under the Equal Protection Clause"); *see also Dollman*, 731 F. Supp. 2d at 336 ("several other factors counsel against granting victims of regional discrimination the same protection afforded those who suffer race or gender bias").

9. *See* Diaz, *supra* note 2, at 651, 672 ("[E]mployment discrimination based on regional origin is currently not actionable under Title VII's national origin provision") ("[C]ourts have continued to treat the United States as a homogeneous place of origin. As a result, plaintiffs may bring national origin claims against their employers based on subnational differences only when those differences stem from outside the United States or from Native American tribes."); *see also Dollman*, 731 F. Supp. 2d at 335 ("Despite this inclusiveness, discrimination on the basis of a person's regional heritage has typically been excluded from the coverage of 'national origin.'").

10. Diaz, *supra* note 2, at 651, 653; *see* Espinoza v. Farah Mfg. Co., 414 U.S. 86, 88 (1973) (holding that "'national origin' on its face refers to the country where a person was born, or, more broadly, the country from which his or her ancestors

there is no proscription against regional discrimination.[11]

In *Dollman v. Mast Indus., Inc.*, the court explained the legal rationale for not covering regional discrimination:

> The text of Title VII does not address whether 'regional' discrimination is within the ambit of 'national origin' discrimination. The Equal Employment Opportunity Commission has issued guidelines 'broadly' interpreting national origin to include ancestry, place of origin, and the cultural and linguistic characteristics of a national origin group. 29 C.F.R. § 1606 . . . Despite this inclusiveness, discrimination on the basis of a person's regional heritage has typically been excluded from the coverage of 'national origin.' Some federal courts have not recognized such discrimination, in and of itself, as a violation of the Civil Rights Act . . . Notably, the legislative history of Title VII suggests that Congress drew a line which excluded regional discrimination from national origin protection.[12]

But even if the law prohibits regional discrimination, the *Dollman* court foresaw the tremendous difficulty in proving such discrimination:

> Moreover, there is no clear history of discriminatory animus, comparable to that faced by blacks or women or Italians because of one's county (not country) of origin . . . Indeed, attempting to ferret out such discrimination would pose a near-impossible task for a court or jury. Unlike the more easily identifiable traits of race or sex, full appreciation of the subtle

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came."); *see*, *e.g.,* Fowler v. Visiting Nurse Serv., No. 06 Civ. 4351, 2007 U.S. Dist. LEXIS 81139, at *4 (S.D.N.Y. Oct. 31, 2007) ("the state or region of the United States where plaintiff was raised is irrelevant to her national origin claim."); *see also* Rhee & Scott, *supra* note 3, at 577–80 (noting that the court has "rejected finding Appalachians a protected 'national origin' class under the Civil Rights Act of 1964.").

11. Lapko v. Grand Mkt. Int'l Corp., No. 514403/2019, slip op. at 9 (N.Y. Sup. Ct. Aug. 12, 2020) ("With respect to plaintiff's claims under NYSHRL and Tile VII, there is ample Federal Court precedent which supports defendants' contention that a claim of intra-country, regional employment discrimination, the type of employment discrimination plaintiff is alleging in this case, is not actionable under Title VII"); *cf.* Rhee & Scott, *supra* note 3, at 583 ("The Cincinnati Human Rights Ordinance is apparently the only civil rights law in the United States with Appalachians as a protected class.").

12. *Dollman*, 731 F. Supp. 2d at 335–36 (citing *Bronson v. Bd. of Educ.*, 550 F. Supp. 941, 959 (W.D. Ohio 1982)); *see Fowler*, 2007 U.S. Dist. LEXIS 81139, at *14 ("regional differences among the people of this country do not create protected classes").

> nuances of regional identity — a prerequisite to deciding a claim of regional discrimination — requires an ethnographic immersion that could not be attained by simply reviewing court filings, exhibits, expert testimony, or the like. Indeed, it is the nuance of regional discrimination that sets it apart from the more detestable forms prohibited by law, which arise from the reversion to superficial distinctions well understood as irrelevant to a person's character.[13]

By emphasizing that regional discrimination lacks a "clear history of discriminatory animus"[14] and the near impossibility of appreciating "subtle nuances of regional identity,"[15] the District Court has apparently signaled its strong aversion to consider claims and arguments on this topic again.

B. THERE IS ALSO NO PROTECTION IN THE U.K.

U.K. law does not recognize regional discrimination either.[16] But, it is important to understand what "region" means in the U.K. context. Discrimination between the four constituents (i.e. England, Northern Ireland, Scotland and Wales) is legally prohibited because it constitutes discrimination of one's national origin.[17]

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13. *Dollman*, 731 F. Supp. 2d at 336.
14. *Id.*
15. *Id.*
16. Tom Heys, *Accent Discrimination Codeswitching and the Equality Act*, LEWIS SILKIN (Jan. 21, 2021), https://www.lewissilkin.com/en/insights/accent-discrimination-codeswitching-and-the-equality-act ("Could, for example, a Liverpudlian claim discrimination if they missed out on a job because of their scouse accent? The answer is probably not, because no issue of nationality or national origins arises. A scouse accent is an English accent and, provided that the employer doesn't discriminate against all English accents, any claim of direct discrimination would surely fail.").
17. Daniel Stander, *Accentism: Is it Time for Protected Status?,* PEOPLE MGMT. (Aug. 17, 2022), https://www.peoplemanagement.co.uk/article/1795992/accentism-time-protected-status ("Under the Equality Act 2010, protection already exists for workers who are discriminated against because of their race, which includes national origins. For example, if a Scottish worker's accent is mocked by English colleagues, they would be able to bring a claim for race discrimination accordingly. However, surprisingly no such legal protection exists in the case of more local or regional origins, which would include those with socioeconomic variations."); *Can You be Discriminated Against Because of Your Accent?*, DOYLE CLAYTON INSIGHTS (Jun. 15, 2011), https://www.doyleclayton.co.uk/resources/insights/can-you-be-discriminated-against-because-of-your-accent ("Discrimination law covers less favourable treatment on the grounds of nationality, but this only includes discrimination on the

On the other hand, regional discrimination refers to discrimination between people from the same constituent, for example Northern England and Southern England. Just as in the U.S., it can take the form of accent discrimination. Stereotyping based on region remains a prevalent problem, and recent research finds that "[p]eople do think that speakers in the north of England are less intelligent, less ambitious, less educated and so on, solely from the way they speak."[18]

C. INTERNATIONAL HUMAN RIGHTS LAW IS NO BETTER: THE LIMITED NOTION OF "SOCIAL ORIGIN"

International anti-discrimination laws do not forbid regional discrimination.[19] The notion closest to "regional discrimination" is the

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grounds of being, for example, Irish or Scottish, it does not yet include discrimination because of the region of England from which the employee originates.").

18. Mark Brown, *Accent Discrimination is Alive and Kicking in England, Study Suggests*, THE GUARDIAN (Jun. 12, 2022), http://www.theguardian.com/uk-news/2022/jun/12/accent-discrimination-is-alive-and-kicking-in-britain-study-suggests; *see* Gabriella Swerling, *Revealed: The UK's Least Respected Accent*, THE TELEGRAPH (Nov. 3, 2022, 6:00 AM), https://www.telegraph.co.uk/news/2022/11/03/revealed-uks-least-respected-accent (stating that "The 'Brummie monotone' is the least respected accent in the UK, academics suggest, with Birmingham natives mocked, criticised and singled out for the way they speak" and arguing that this has been an ongoing social problem in the U.K. which continues to receive academic attention on the possible solutions since regional discrimination may involve an aspect of classism); Jennifer Sheehy-Skeffington, *Should Class be Protected Under Law?*, LONDON SCH. OF ECON. & POL. SCI. RSCH. FOR THE WORLD (Nov. 15, 2022), https://www.lse.ac.uk/research/research-for-the-world/society/should-class-be-protected-under-law ("As it stands, there is nothing currently embedded in UK law to prevent class discrimination . . . A person can be denied an opportunity based on their accent, their postcode, or any other indicator of their socio-economic background. Introducing class as a protected characteristic within the Equality Act would provide the legal framework required to tackle discrimination and disadvantage.").

19. International Covenant on Civil and Political Rights art. 26, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR] ("the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"); International Covenant on Economic, Social and Cultural Rights art. 2(2), January 3, 1976, 993 U.N.T.S. 3; International Convention on the Elimination of All Forms of Racial Discrimination art. 1, January 4, 1969, 660 U.N.T.S. 195 ("the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin").

forbiddance of discrimination based on "social origin," which is a separate ground from "national origin."[20] The "social origin" ground is not available in U.S. law (e.g. Title VII which covers only "national origin").[21]

Unfortunately, the United Nations Committee on Economic, Social and Cultural Rights has defined "social origin" restrictively as "a person's inherited social status."[22] It narrowly focuses on "property" and "economic and social status,"[23] such as whether one owns property and whether one is homeless.[24] This does not cover regional discrimination. Similarly, the notion of "social exclusion" under EU law is not helpful, because it is limited to the poverty context, such as receiving social and housing benefits.[25]

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20. ICCPR, *supra* note 19, art. 26; *see, e.g.*, *Australian Fair Work Act 2009*, ch. 3 div. 5 s. 351 (Austl.) ("An employer must not take adverse action against a person who is an employee, or prospective employee, of the employer because of the person's race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or *social origin*.") (emphasis added).

21. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a).

22. Comm. on Economic, Social and Cultural Rights, General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights, U.N. Doc. E/C.12/GC/20, at 7 (2009) [hereinafter General Comment No. 20]. In practice, however, it was noted that the notion of "social origin" is very narrow and does not even cover social class. *See* Emerita Geraldine Van Bueren, *Inclusivity and the Law: Do We Need to Prohibit Class Discrimination?*, 3 EUR. HUM. RTS. L. REV. 274, 279–80 (2021) [Hereinafter *Inclusivity and the Law*] ("[V]ery little space is devoted to class discrimination, even where it would be most expected to be included, within General Comment 20 of the United Nations Committee on Economic, Social and Cultural Rights on Non-Discrimination.").

23. General Comment No. 22, *supra* note 22, at 7.

24. *See Inclusivity and the Law*, *supra* note 22, at 279 (noting that the General Comments, particularly General Comment 20, devote very little space to class discrimination even where it would be expected"); *see also* Angelo Capuano, *The Meaning of "Social Origin" in International Human Rights Treaties: A Critique of the CESCR's Approach to "Social Origin" Discrimination in the ICESCR and its (Ir)relevance to National Contexts Such as Australia*, 4 N.Z. J. EMP. RELS. 91, 91 (2017) (arguing that the United Nations Committee on Economic, Social and Cultural Rights views "social origin" as referring to "inherited social status").

25. *See* European Social Charter, Oct. 18, 1961, 529 U.N.T.S. 89, E.T.S. No 35, art. 30 ("right to protection against poverty and social exclusion"); Charter of Fundamental Rights of the European Union, art. 34, Oct. 26, 2012, 2012 O.J. (C 326) 391, 402 [hereinafter Charter of Fundamental Rights]; *see also Inclusivity and the Law*, *supra* note 22, at 280 (decrying the rarity of the "occasional flickering

1. The Emerging International Academic Focus on Classism

The international academic focus lies predominantly on whether "class" should be included as a new ground of prohibited discrimination.[26] This means international law may become even less likely to address regional discrimination, as the latter is not yet the hottest academic topic. One reason for the attention on classism is that international law already has sufficient room for deriving a solution, which motivates academics to push for it. In Professor Van Bueren's words, "although there is sufficient space in much domestic legislation and in regional and international human rights treaties for governments, courts[,] and human rights fora to read class into the existing categories of prohibited discriminations, this has not occurred."[27] By comparison, the case for taking action against regionalism is just as strong, as China has already taken such successful actions.[28]

Classism can resemble regionalism in many ways, as it does with the urban-rural divide in both the U.S and the U.K. In the U.K., accent

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flames lighting the way towards prohibiting class discrimination," even from United Nations bodies and General Comments); KARIN LUKAS, THE REVISED EUROPEAN SOCIAL CHARTER: AN ARTICLE BY ARTICLE COMMENTARY 324 (2021) (noting that in the EU law context, "social exclusion refers to persons who find themselves in a position of extreme poverty through an accumulation of disadvantages, who suffer from degrading situations or events or from exclusion, whose rights to benefits may have expired a long time ago or because of specific circumstances.").

26. *See, e.g.*, Sheehy-Skeffington, *supra* note 18 (stating that class discrimination, such as being denied an opportunity based on accent, postcode, or any other indicator of socio-economic background, is not unlawful in the U.K., but it should be); *see also Inclusivity and the Law*, *supra* note 22, at 279–80 (arguing that while there is space for national and international courts to read into existing human rights treaties a prohibition on class discrimination, there is a reluctance to do so); Alex Benn, *The Big Gap in Discrimination Law: Class and the Equality Act 2010*, 3 U. OXFORD HUM. RTS. HUB J. 30 (2020) (proposing an amendment to the U.K.'s Equality Act 2010 to introduce class as a "'protected characteristic'"); Jasjit Mundh, *Class as Protected*, CAL. L. REV. BLOG, https://www.californialaw review.org/online/class-as-protected (Jan. 2021) (advocating for the addition of socioeconomic status to the language of Title VII and other anti-discrimination statutes in the U.S.). Perhaps classism involves broader social issues like poverty and social mobility, which might explain why this topic is popular.

27. *Inclusivity and the Law*, *supra* note 22, at 274–75.

28. See *infra* Section III.

has been used as an indicator for both social class and regional origin.[29] In this sense, dealing with regionalism will indirectly help address classism. Yet, the reverse is less effective (i.e., prohibiting classism will not necessarily protect the victims of regional discrimination). This is because a person's accent and social class can be acquired or changed, but their regional origin cannot.[30] For example, a person who comes from a region of poverty and moves up the social ladder through hard work can still be mocked for their regional origin at birth.

In addition, the notion of "region," which, admittedly, can be difficult to define in certain cases, can be objectively defined based on location.[31] Nevertheless, it is more difficult and subjective to draw the line between different "classes."[32] The poverty threshold (or

29. *See*, *e.g.*, Richard Adams, *Bias Against Working-Class and Regional Accents has Not Gone Away, Report Finds*, THE GUARDIAN (Nov. 3, 2022), https://www.theguardian.com/inequality/2022/nov/03/bias-against-working-class-and-regional-accents-has-not-gone-away-report-finds (describing a study, which found that young people from the north of England and the Midlands were much more likely to be concerned that their accent would count or had counted against them in academic and employment situations as compared with people from the south of England); Benn, *supra* note 26, at 61 ("Class is often reduced to economic status, but class and classism, particularly in the UK, are familiar as involving snobbery, regionalism and accent bias, as well as particular attitudes in education and employment.").

30. *See* Michael Donnelly et al., *Accent and the Manifestation of Spatialised Class Structure*, 70 SOCIO. R. 1100, 1107, 1111–14 (2022) (noting that "dominated accents always belonged somewhere and are intertwined with classed geographies that derive from spatially uneven economic development").

31. *But see* Dollman v. Mast Indus., Inc., 731 F. Supp. 2d 328, 336 (S.D.N.Y. 2010) (holding, in dicta, that "[u]nlike the more easily identifiable traits of race or sex, a full appreciation of the subtle nuances of regional identity . . . requires an ethnographic immersion that could not be attained by simply reviewing court filings, exhibits, expert testimony, or the like."); Rhee & Scott, *supra* note 3, at 573 ("geographic identity is much more difficult to recognize than race. In particular, there remains much controversy over how to define the Appalachian region, let alone how to define whether or not someone is truly an Appalachian."). While there can certainly be individuals who are difficult to classify, in general it is a rather straightforward process by referencing, for example, the individual's place of birth and/or childhood. For example, in some cultures, people often ask one another questions like "where did you grow up?" and "where were you born?". These questions demonstrate the immutable and persistently significant nature of one's regional origin. A child has no power and choice on the location, as the decision was made by their parents or family.

32. *See* Benn, *supra* note 26, at 61 (arguing that classism is not just about poverty, but has many other social considerations such as place of education and

"breadline") and the boundary between "classes" may fluctuate depending on the economic circumstances and social understanding.[33] It is therefore more practical to implement a ban of regional discrimination.

Furthermore, sanctioning class discrimination could unhelpfully be taken to imply that social mobility does not exist. Laying down an official definition for different classes (e.g., whether one lives in public housing) may even reinforce stereotyping. Conversely, a person's regional origin cannot be changed or hidden in some places. For example, in China, a person's regional origin was written on legal documents.[34] Rhee and Scott made the thought-provoking point considering whether the victims of locational prejudice in the U.S. are expected to hide or lie about their regional origin.[35]

III. THE OVERLAP WITH RACIAL DISCRIMINATION

Depending on the circumstances, there is significant conceptual overlap and statistical relevance between race and region.[36]

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accent); *see, e.g.*, Geraldine Van Bueren, *Enriching Universities and Scholarship by Prohibiting Class Discrimination*, *in* THE LIVES OF WORKING CLASS ACADEMICS GETTING IDEAS ABOVE YOUR STATION 223, 224 (Iona Burnell Reilly ed., 2022) ("Interestingly, speaking about class discrimination in British universities, the question I am always asked is how I define working class. I have never, it should be noted, been asked to define middle class. This question is frequently followed with the question of whether a working class or classes still exist.").

33. *See* Antony S. R. Manstead, *The Psychology of Social Class: How Socioeconomic Status Impacts Thought, Feelings, and Behavior*, 57 BRITISH J. SOC. PSYCH. 267, 268, 274 (2018) (discussing the enduring self-identification of people as "working class," despite the dramatic decline in traditional working-class occupations, as connected to political and ideological attitudes towards poverty).

34. *See* Jie Chen & Mingzhi Hu, *City-Level Hukou-Based Labor Market Discrimination and Migrant Entrepreneurship in China*, 27 TECH. & ECON. DEV. ECON., 1095, 1097 (2021) (noting that under the post-communist revolution China, all citizens had "to register their hukou location (either local or non-local) and hukou type (either rural or urban)" under the hukou system).

35. Rhee & Scott, *supra* note 3, at 592 ("If they excel at hiding (or 'covering') their Appalachian identity and are less likely to suffer discrimination as a result, are they less deserving of legal protection?").

36. *See* Elizabeth Kneebone & Richard V. Reeves, *The Intersection of Race, Place, and Multidimensional Poverty*, BROOKINGS INST. (Apr. 21, 2016), https://www.brookings.edu/articles/the-intersection-of-race-place-and-

Conceptually, for example, imagine a person of White ethnicity from an urban region discriminating against people from rural regions and calling them "White trash."[37] On the one hand, the derogatory term is premised on the rural-urban divide, so it is about regional discrimination.[38] On the other hand, there is a racialized element in the emphasis of "White."[39] Even though not all White people, but only rural White people, are targeted by this term, it is difficult to deny the

multidimensional-poverty (noting variations by race, in that African Americans are more than twice as likely as whites to be low-income in cities, but that Hispanics are two-and-one-half times as likely as whites to be low-income in the suburbs).

37. *See* Lihi Yona, *Whiteness at Work*, 24 MICH. J. RACE & L. 111, 111 (2018) ("Intra-White discrimination cases may range from associational discrimination cases to cases involving discrimination against poor rural Whites, often referred to as "White trash.").

38. *See Taking Out the White Trash: America's Urban-Rural Divides*, THE ECONOMIST (Jun. 29, 2017), https://www.economist.com/special-report/2017/06/29/americas-urban-rural-divides (analyzing Democrat-leaning northern Virginia with Republican-leaning West Virginia in connection with urban prejudice against rural dwellers); Jamie Winders, *White in All the Wrong Places: White Rural Poverty in the Postbellum US South*, 10 CULTURAL GEOGRAPHIES 45, 47, 55 (2003) ("Northern men and women travelling in the region played an important role in the South's overall construction as the repository for white rural poverty in the guise of 'white trash. . . . Spatially sequestering rural white poverty in the South, a place from which Northern travelers could distance themselves through their own regional affiliation, did not create a sufficient buffer between them and the white trash they encountered").

39. *See* Marjo Kolehmainen, *The Material Politics of Stereotyping White Trash: Flexible Class-Making* 65 SOCIO. REV. 251, 251 (2017) (stating that the term white trash "is used to reproduce class stigma, illustrating how class is made through racialization"); Winders, *supra* note 38, at 52 ("[I]n a postwar South, poor whites were scripted as excessively white to the point of resembling death to place in greater relief, and simultaneous invisibility, [sic] travellers' own sense of whiteness as ordinary. Although both groups were white, poor white trash were so white that they were distanced, through discourses of degeneracy and death, from the white 'norm' of most Northern [sic] travellers."); MATT WRAY, NOT QUITE WHITE: WHITE TRASH AND THE BOUNDARIES OF WHITENESS 139 (2006) ("The idea that whiteness is 'about race' is simply not adequate to account for the case of poor white trash, a boundary term that speaks equivocally and ambivalently to the question of belonging and membership in the category white, and one that mobilizes a wide array of social differences to do so."); Lisa R. Pruitt, *Welfare Queens and White Trash,* 25 S. CAL. INTERDISC. L. J. 289, 306, 309 (2016) ("In some cases, the desire to differentiate oneself is greater among whites than between whites and other races. This is because skin color does not provide the visible distinction. . . . [T]he attitudes toward the poor are shaped as much by the race of the person who holds the attitude as by the race of the poor person who could benefit from a safety net program.").

intra-racial dynamics involved between urban Whites and rural Whites. In those circumstances, it is not easy to determine whether it is regional, social status, "class", or (intra-)racial discrimination.[40] From another perspective, some White people may be more prone to see this as an issue of class status, but external observers would see this a racial issue.[41] In any event, the inseparable overlap between race, class, and region have been widely acknowledged.[42]

Another example even more revealing of the interplay between these characteristics is the use of the derisive term, "Yankees," against Northerners in the U.S. in a racialized way. When Henry Ingram from the South wished to preserve the Southern heritage of his property, he included a restrictive covenant in the land deed providing that "[t]he property shall never be leased, sold, bequeathed, devised or otherwise transferred, permanently or temporarily, to any person or entity that may be described as being part of the *Yankee race*."[43] The term

40. *See* Pruitt, *supra* note 39, at 307 ("[I]ntraracial bias among whites may be most virulent because poor whites are too close for comfort—too close racially for other whites, but also too close economically for other low-income whites who differentiate themselves from the non-working hoi polloi with their politics"); Thomas Kleven, *Systemic Classism, Systemic Racism: Are Social and Racial Justice Achievable in the United States?*, 8 CONN. PUB. INT. L. J. 37, 39 (2009) ("Class and race, while not identical, are intimately interrelated and cannot be fully disentangled. A racist society will inevitably be a classist society because racist practices contribute to class distinctions. Conversely, a classist society produces racism.").

41. *See* Pruitt, *supra* note 39, at 297 ("[I]n the post-Civil War period, poor whites cast their lot with other whites—more affluent and powerful whites—rather than with blacks, even though their economic interests were far more aligned with their black brothers and sisters . . . 'Racial solidarity, particularly the solidarity of whiteness, has historically always been used to obscure class, to make the white poor see their interests as one with the world of white privilege. Similarly, the black poor have always been told that class can never matter as much as race.'").

42. *See id.* at 299–300, 310 (noting the "powerful intra-racial dynamics" involved in socioeconomic hierarchy).

43. Leonard, *supra* note 8, at 672. This interesting example was widely discussed in the media and other literature. *See* Patrick J. Rohan, *Preparing Community Associations for the Twenty-First Century: Anticipating the Legal Problems and Possible Solutions*, 73 ST. JOHN'S L. REV. 3, 12 n.33 (1999) (nothing that Ingram's anti-Northerners campaign "attracted the attention of the Associated Press and the American Bar Association"); Alfred L. Brophy & Shubha Ghosh, *Whistling Dixie: The Invalidity and Unconstitutionality of Covenants Against Yankees*, 10 VILL. ENV'T L. J. 57, 57, 59, n.12 (1999) (suggesting that the motivation behind Ingram's highly unusual restrictive covenant may have been at least partially inspired by a desire for publicity).

"Yankee race" was defined in the covenant as "any person or entity born or formed north of the Mason-Dixon line, or any person or entity who has lived or been located for a continuous period of one (1) year above said line."[44] While this can be viewed as a lawful discrimination based on geographical origin, Brophy and Ghosh took the view that this constituted "an impermissible racial classification."[45] They first sensibly conceded that the use of the word "race" does not automatically make it a racial issue:

> "Yankee race" is not a conventional racial category; it is one that encompasses whites, blacks, Asians, Hispanics, and Native Americans if a member of such a group was born north of the Mason-Dixon line or lived there for more than a year. . . . Does the use of the word "race" alone place a law in the facial classification category? This solution would lead to the absurd conclusion that covenants which made restrictions based on the "left handed race" or "the race of old people" would subject the covenant to strict scrutiny when the classification itself involves a non-suspect category.[46]

Brophy and Ghosh made the thought-provoking point that the phrase "Yankee race" discriminated against multiple races at the same time.[47] In terms of legal support, they relied on the analogous example of the unconstitutional prohibition of miscegenation (interracial marriage), which has been held to constitute racial discrimination even though the prohibition does not target a specific race.[48] The point here

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44. Leonard, *supra* note 8, at 673.

45. *See* Brophy & Ghosh, *supra* note 43, at 70–71, 79 (finding that Ingram's covenant runs afoul of the Fourteenth Amendment's Equal Protection Clause and acknowledging that while it may be "a stretch of history and reason" to extend protections originally intended for African Americans to the "Yankee race," failure to do so would be inconsistent with the *Shelley* court which held, in dicta, that the Fourteenth Amendment's rights are "personal rights").

46. *Id.* at 80.

47. *See* Brophy & Ghosh, *supra* note 43, at 82–83 ("By race, the Court did not mean black or white alone, but distinctions based on cultural or ethnic identity. Equal protection does not mean that African-Americans and whites can be equally mistreated under the law.") Brophy and Ghosh further explained why the phrase was discriminatory because "[e]ven if Mr. Ingram's restriction prevents African-Americans and whites equally from purchasing the plantation, the restriction's own terms by reference to the unconventional but clearly understood category of the 'Yankee race,' reflects racial and cultural stereotypes and therefore is violative of the Equal Protection Clause."

48. *See id.* at 82 (" . . . the Court found that laws preventing cross-racial intercourse and marriage violated the Equal Protection Clause" because '[t]here can

is not whether Brophy and Ghosh's legal argument would work because it is fact-specific.[49] Rather, they brought out that regional slurs can be used in a racialized way. Perhaps this becomes more illustrative when the phrase is re-framed as excluding "Yankee Blacks" or "Yankee Whites" from the property.

There is also another thought-provoking example in the U.K. Bradford, a city in England, has been nicknamed "Bradistan" for the number of Pakistanis living there.[50] In other words, it demonstrates how a place or region can be conceptually linked to a particular race. Allowing regional discrimination opens the door to using regional discrimination as a pretext for racism, for example, by excluding job applicants from Bradford with the hidden ulterior motive of denying Pakistani applicants.

Statistically, it is difficult to deny that there is strong relevance

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be no question but that Virginia's miscegenation statutes rest solely upon distinctions drawn according to race.'").

49. *See* Leonard, *supra* note 8, at 687–91 (who disagreed with Brophy and Ghosh's analysis and took the view that the courts will not recognize "Yankee" as a race). This objection arguably missed the larger implicit point because Brophy and Ghosh did not only contend Yankee be separately recognized as a race like "quadroon," but rather how the "Yankee race" needed not and "did not mean black or white alone." *See also* Brophy & Ghosh, *supra* note 43, at 82 ("By race, the Court did not mean black or white alone, but distinctions based on cultural or ethnic identity.").

50. *See*, *e.g.*, Saqib Raja, *Bradford or Bradistan? UK names Little Pakistan Cultural City of 2025*, WORLD AAJ ENG. TV (June 4, 2022), https://www.aajenglish.tv/news/30288098/bradford-or-bradistan-uk-names-little-pakistan-cultural-city-of-2025 (" . . . Bradford is often called Bradistan, as seen in the legendary movie "East is East."); Samira Shackle, *The Mosques Aren't Working in Bradistan: Bradford's Pakistani Community Predominantly Originates from the Mirpur Region*, THE NEW STATESMAN (Aug. 20, 2010), https://www.newstatesman.com/long-reads/2010/08/bradford-british-pakistan ("As I walked among the sari shops and supermarkets in the Horton area, it was obvious why the city has earned the name "Bradistan."); Zaiba Malik, *My £1.40 Ride Through Muslim Britain*, THE GUARDIAN (June 30, 2004), https://www.theguardian.com/world/2004/jul/01/religion.britishidentity (" . . . after years of living in "Bradistan" - inner-city Bradford with a high concentration of Pakistanis. . . ."); Claire Armstrong, *One in Five People in District Now of Pakistani Origin*, BRADFORD TEL. & ARGUS (Dec. 12, 2012), https://www.thetelegraphandargus.co.uk/news/10101667.one-in-five-people-in-district-now-of-pakistani-origin/ ("Bradford has more Pakistani residents than any other place in England and Wales, new census data reveals."); Benn, *supra* note 26, at 58 (noting the "stereotypes about Bradford being 'rough' and 'full of Pakistani people").

between region and race. Regional discrimination becomes even more akin to intra-racial discrimination in countries that are less racially-diverse (i.e. with the population substantially composed of the same race). For example, 90% of China's population is of the same race;[51] whilst the U.K. population consists of 82 % White people.[52] Moreover, while the population in the U.S. is relatively diverse with no single race accounting for more 80%, its population is still composed of 60.1% White people.[53] Besides, the U.S. case *Dollman* involves a British complainant and a British defendant working in the U.S.,[54] which shows that discrimination based on non-U.S., less racially diverse regions can also happen in the U.S.

There is no apparent way to reconcile the logic of sanctioning racial discrimination against all English White people, whilst allowing regional discrimination against Northern English or Southern English people particularly when the population of Northern and Southern England are composed of more than 82% of White people.[55] Imagine a non-White person from the racially diverse city of London discriminating against people from other parts of England that consist of mostly White people, according to the data.[56] This could easily give rise to the impression that this constitutes racial discrimination against White people as opposed to regionalism.

The absence of any legal protection means a person can act in ways that have materially the same effect as racial discrimination. Whilst regional discrimination may be genuinely motivated by regional differences, it can also be used as a smokescreen for discrimination based on impermissible grounds. This would be difficult to prove.

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51. *Many Chinese Suffer Discrimination Based on Their Regional Origin*, THE ECONOMIST (Apr. 11, 2019), https://www.economist.com/china/2019/04/11/many-chinese-suffer-discrimination-based-on-their-regional-origin.

52. *Ethnicity Facts and Figures*, GOV.UK, https://www.ethnicity-facts-figures.service.gov.uk.

53. William H. Frey, *The Nation is Diversifying Even Faster Than Predicted, According to New Census Data*, BROOKINGS INST. (July 1, 2020), https://www.brookings.edu/articles/new-census-data-shows-the-nation-is-diversifying-even-faster-than-predicted.

54. *Dollman*, 731 F. Supp. 2d at 331–32.

55. *Ethnicity Facts and Figures*, *supra* note 52.

56. *Id.*

A. CAN DISPARATE IMPACT CLAIMS IN THE U.S. PROVIDE A REMEDY?

The above analysis provides the *prima facie* basis for the argument that regional discrimination has the same disparate impact as racial discrimination.[57] Basically, "disparate impact claims arise from employment practices that are 'facially neutral in their treatment of different groups but that in fact fall more harshly on one group than another.'"[58] It is arguable that regional discrimination affects the majority race significantly more than others (e.g., disproportionately affecting White people more which constitutes 85% of the population of Northern England).[59] The discussion does not have to be limited to the U.S. statistics because, as shown by *Dollman*, the U.S. courts may encounter cases involving foreign nationals working in the U.S.

However, this disparate impact claim will not be very helpful. First, such a cause of action only covers situations where there is a "practice or policy" adopted by the employer.[60] Nelson noted that it usually has

57. *See* Watson v. Fort Worth Bank & Trust, 487 U.S. 977, 987 (1988) ("The necessary premise of the disparate impact approach is that some employment practices, adopted without a deliberately discriminatory motive, may in operation be functionally equivalent to intentional discrimination.")

58. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e–2(k); *see* Diaz, *supra* note 2, at 656 ("Unlike disparate treatment claims, disparate impact claims do not require proof of a discriminatory motive."); *see also* Barrette v. Chevron Corp., No. F070821, 2016 WL 6892241, at *17 (Cal. Ct. App. Nov. 23, 2016) ("Prohibited discrimination may also be found on a theory of 'disparate impact,' i.e., that regardless of motive, a *facially neutral* employer practice or policy, bearing no manifest relationship to job requirements, *in fact* had a disproportionate adverse effect on members of the protected class.").

59. *See* Brophy & Ghosh, *supra* note 43, at 83–84 (arguing similarly to the facts of the no- "Yankee race" land covenant that the covenant would affect African-Americans more because of their migration pattern to the South). However, they have addressed the practical difficulty of proof. In light of this difficulty, which is highlighted in this article, it is likely that their argument will fail in the "Yankee race" context. *See also* Leonard, *supra* note 8, at 691–93 (arguing that Brophy and Ghosh's views would fail because "a disparate impact is not shown merely because a larger actual number is affected; rather, impact must be disproportionate with respect to other races").

60. *See* Chin v. Port Auth., 685 F.3d 135, 151 (2d. Cir. 2012) ("To prevail under the disparate impact theory of liability, a plaintiff must show that the employer 'uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin.' 42 U.S.C. § 2000e–2(k)(1)(A)(i). This requires a plaintiff to (1) 'identify a specific employment practice' or policy, Malave

to be at the "corporate-level."[61] In other words, this does not provide a cause of action for *interpersonal* situations like *Dollman*.[62] In *Dollman*, the complainant was a British citizen from Essex, who felt discriminated by her supervisor Tranter, also a British citizen from Birmingham. Dollman "sensed a 'change in attitude' by Tranter, which she attributed to the fact that Tranter came from a different region of England than she did."[63] She was also specifically told not to use English jargon or English humor.[64] Ultimately, Dollman did not pursue a disparate impact claim, apparently because the relational treatments would not constitute a "practice or policy."[65]

Second, it is unlikely that the complainant will be able to prove "a significantly adverse or disproportionate impact on persons of a

v. Potter, 320 F.3d 321, 326 (2d Cir. 2003); '(2) demonstrate that a disparity exists; and (3) establish a causal relationship between the two.'").

61. *See* Ryan H. Nelson, *Substantive Pay Equality: Tips, Commissions, and How to Remedy the Pay Disparities They Inflict*, 40 YALE L. & POL. REV. 149, 192 (2021) ("typically they are discrete, corporate-level terms and conditions of employment as opposed to one-off decisions by local management"). *See e.g.,* Council 31 v. Ward, 978 F.2d 373, 378 (7th Cir. 1992); ("it is difficult to make out a *prima facie* showing of adverse impact: the affected group may be too small for any valid statistical comparisons"); O'Brien v. Caterpillar Inc., 900 F.3d 923, 929 (7th Cir. 2018) ("a policy likely exists where employees 'can show significant disparities stemming from a single decision.' . . . Though the liquidation plan is a single event, it applies the same rules to hundreds of employees and causes significant age-based disparities between workers. It is an actionable policy.") (citation omitted).

62. The absence of prohibition against regional discrimination means that one can lawfully and intentionally discriminate others based on their region of origin. This precludes "disparate treatment" claims in the U.S. (which is defined in *Barrette*, as "intentional discrimination against one or more persons on prohibited grounds"). Barrette, 2016 WL 6892241, at *17; The U.K.-equivalent is a "direct discrimination" claim. Equality Act 2010, c. 15 § 13 (Eng.).

63. *Dollman*, 731 F. Supp. 2d at 333.

64. *See id.* ("Tranter also instructed Dollman to refrain from using English jargon, such as "bonkers," or English humor with her colleagues.").

65. *Id*. at 334 (" . . . Dollman and her husband commenced this action asserting claims for (1) national origin discrimination; (2) pregnancy discrimination; (3) retaliation; and (4) negligent infliction of emotional distress."); *see* Chin, 685 F.3d at 151 ("To prevail under the disparate impact theory of liability, a plaintiff must show that the employer 'uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin.' . . . This requires a plaintiff to (1) 'identify a specific employment practice' or policy, Malave v. Potter, 320 F.3d 321, 326 (2d Cir. 2003); (2) demonstrate that a disparity exists; and (3) establish a causal relationship between the two.").

particular" race.[66] The courts have applied inconsistent tests for proof and academics have also offered varied understanding of the tests.[67] The major ones will be applied in turn.

Eissenstat suggests that "[t]o establish causation, courts would ideally look at whether the challenged practice would create a disparate impact if exercised on the overall relevant labor market."[68] This test would go against the complainant because even if regional discrimination affects a particular race more than others from that region, it does not affect people of that race from other regions. Imagine a company which openly announces that they will never hire anyone from Northern England or even accept their applications. Such a policy disproportionately affects White people from Northern

66. Tsombanidis v. West Haven Fire Dep't, 352 F.3d 565, 575 (2d Cir. 2003); Sw. Fair Hous. Council v. Maricopa Domestic Water Improvement Dist., 9 F.4th 1177, 1186 (9th Cir. 2021).

67. The courts have inconsistently applied three tests for the proof of such, namely (1) the 80 percent rule, (2) statistical significance test and (3) practical significance test. *See* Katie Eissenstat, *Lies, Damned Lies, and Statistics: The Case to Require "Practical Significance" to Establish a Prima Facie Case of Disparate Impact Discrimination*, 68(3) OKLA. L. REV. 641, 642 (2016) ("Because no clear test exists to determine when disparate impact has occurred, courts choose between two predominant methods: the four-fifths rule and statistical significance tests. Unfortunately, these methods often produce opposite results. The conflicting nature of the tests allows judges to choose whichever test supports their subjective opinion and equalizing view of the claim."); Jennifer L. Peresie, *Toward a Coherent Test for Disparate Impact Discrimination*, 84 IND. L. J. 773, 775–76, 779 (2009) ("Each test addresses a separate inquiry: statistical significance tests ask whether the plaintiff has established causation, that is whether the disparity is statistically significant; and the four-fifths rule asks whether the plaintiff has shown that the law should be concerned, that is whether the disparity is practically significant. . . . Where there is no evidence of bad intent on the part of the employer, judges who characterize disparate impact as a means of smoking out employers with animus toward a protected class (Primus's first view) might be more willing to choose whatever statistical test favors the defendant. Conversely, judges who see the doctrine as a grand way of leveling the playing field between different groups of people (Primus's second view) might err on the side of penalizing employers and be willing to impose liability whenever the plaintiff can satisfy either of the tests.").

68. Eissenstat, *supra* note 67, at 645 n.22. Peresie suggested the same test and cited the Supreme Court case of Dothard v. Rawlinson, 433 U.S. 321 (1977) as a supporting example, "where plaintiffs claimed that a height and weight requirement created a disparate impact on female applicants." Peresie, *supra* note 67, at 781 ("Ideally, courts could assess causation by looking at whether the challenged practice would have a disparate impact if implemented on the relevant population.").

England, but as White people from other regions can still apply and secure the post, it does not create a disparate impact against White people from "the overall relevant labor market."[69] The relevance of this test is particularly compelling in the present context because the protected characteristic is the "race," but not the "region."[70] The basis of comparison with persons of the same protected characteristics should therefore be on "race."

Applying other tests—including (1) the 80 percent rule and (2) the statistically significance test—will not necessarily assist the complainant. Imagine a company that discriminates against White people from rural regions and the whole company is composed of White people from urban regions. There is simply no way to numerically or statistically prove any racial discrimination against White people.

That said, there are still some situations where the complainant can prove this. For example, assume an employer discriminates against multiple regions of England and secretly chooses to hire only those from London (which has a population of 46.2% of people who are not White which increases to 70% in select districts such as Newham in London).[71] Imagine there are randomly 100 applicants from the discriminated regions of England and 100 applicants from London. To further break down the figures, there are 80 White and 20 non-White applicants from the discriminated regions (as around 80% of the population are White); and 60 White people and 40 non-White people from London (taking the 60%/40% proportion in London into account). Ultimately, the company hires only 50 people (i.e. 50% of London applicants), with 30 White people and 20 non-White people from London. A White complainant would succeed under the 80 percent rule, because the hiring rate for White applicants (21.4%) is

69. *See* Eissenstat, *supra* note 67, at 645 n.22 ("To establish causation, courts would ideally look at whether the challenged practice would create a disparate impact if exercised on the overall relevant labor market.") (citation omitted).

70. *Id.* at 645 ("To establish disparate impact discrimination, the plaintiff must (1) identify and isolate an employment practice implemented by the defendant, and (2) demonstrate the isolated employment practice or procedure "causes a disparate impact on the basis of race, color, religion, sex, or national origin.").

71. *Regional Ethnic Diversity*, GOV.UK, https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/regional-ethnic-diversity/latest.

less than 80% of that for non-White applicants (33.3%).[72] But the employer can defeat the claim by strategically increasing the hiring rate for White applicants to over 26.6% (i.e. 80% of 33.3%).[73]

Number of Applicants	Hired Applicants	Hiring Rate
140 Whites (60 from London and 80 from the rest of England)	30 Whites (50% from London)	21.4%
60 non-Whites from all regions (40 from London and 20 from other regions)	20 non-Whites (50% from London)	33.3%

The "statistical significance" test is much more complicated, but its detailed functioning is not the focus for this article.[74] Nevertheless, it

72. *See* Eissenstat, *supra* note 67, at 647–48 ("The four-fifths rule finds a disparity actionable when one group's selection rate—a group's ability to successfully meet the criteria of the hiring or employment procedure—is less than four-fifths, or 80%, of another group's selection rate. This 'impact' of 80% or less demonstrates the existence of a 'sufficiently substantial' disparity."); Kayla Burris, *A Title VII Dead End? Machine Learning and Employee Monitoring*, 63 WM. & MARY L. REV. ONLINE 91, 105 (2022) ("The Equal Employment Opportunity Commission (EEOC) has defined the required statistical disparity for hiring in the 'four-fifths rule,' which says that '[a] selection rate for any [protected class] which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded . . . as evidence of adverse impact.' Although the rule's language focuses on hiring, courts have sometimes applied these guidelines to termination cases, though many courts have abandoned the 'rule' (which is in fact a guideline and not legally binding) altogether in favor of analyzing statistical significance. Needless to say, although the measure and degree of disparity may differ between circuits, employees will need to prove that a particular class was significantly more affected by the monitoring policies—whether that be in the form of disciplinary measures, terminations, or some other form of adverse treatment.").

73. Peresie, *supra* note 67, at 783 (" . . . [T]he four-fifths rule . . . puts employers on notice of the relative balance an employee must achieve in its workplace to avoid litigation . . . [but the rule also] burdens small employers more harshly than large employers because the addition or subtraction of as few as one employee will have a larger impact on the selection ration and expose a small employer to liability but will have no effect on a large employer.").

74. *Id.* at 785 (" . . . [T]he statistician starts with the null hypothesis that there is no disparity between the selection rates of the two groups in the overall population.

may be used to the defendant's defense by arguing that selection rate for the London applicants of each group is equal (50%). In that sense, there is no statistical deviation (meaning no disparity) from the "null hypothesis" of using "equal selection rates by an employer among different racial applicant groups."[75] There is no legal wrong in excluding applicants from other regions, as regional discrimination is lawful, so the defendant can make a compelling case for redirecting the statistical focus back to the relevant London context only.

B. THE ARGUMENT REMAINS INEFFECTIVE IN THE U.K.

The U.K. Equality Act of 2010 sanctions discrimination based on race and national origin, just like the U.S. law.[76] The law covers intra-racial discrimination, and considers it an error of law to hold that there is no discrimination simply because the parties involved are of the same race.[77] This has been affirmed by the U.K. Supreme Court.[78]

The alternate hypothesis is that some disparity exists. The researcher calculates the Z-score for the observed disparity. If this probability is lower than a specified level (usually five percent), then the researcher can conclude that a disparity likely exists in the population.").

75. Kevin Tobia, *Disparate Statistics*, 126 YALE L. J. 2382, 2392 (2017).

76. Equality Act 2010, c. 15 § 9(1) (Eng.) (noting that race includes color, nationality, and ethnic and national origin).

77. *Graham v. London Borough of Barnet*, [2000] EAT 221_99_2305, ¶ 37 (May 23, 2000) ("We entirely accept that it cannot be assumed that individuals of the same racial group will not discriminate against each other on racial grounds . . . If the Tribunal had said that because Ms. Graham and Miss Bennett were of the same racial group, namely Afro-Caribbean, there could not have been discrimination by one against the other, then that would, in our view, have been a glaring error of law."). That case involved employment discrimination under s. 4 of the Race Relations Act 1976 (U.K.) which has now been replaced by s. 39 of the Equality Act 2010 (U.K.), which offers substantially the same protection. The Graham case remain valid and has been cited recently in *Khan v. Professional Pizza Company Ltd.*, 1305972/2020, ¶ 75 (Jan. 24, 2021); Equality Act 2010, c. 15 § 39 (Eng.).

78. *See R (on the application of E) v. Governing Body of JFS*, [2009] UKSC 15, ¶ 152(i) (Dec. 16, 2009) ("It is suggested that the 1976 Act does not outlaw discrimination by an ethnic group against the same ethnic group. However, as I see it, the question is simply whether the discrimination is on ethnic grounds. The discrimination is not in dispute. I do not see that the identity of the discriminator is of any real relevance to the answer to the question. There is certainly nothing in the language or the context of section 1 of the Act or in its statute purpose to limit the section in that way."); *see also* Michael Connolly, *Racial Groups, Sub-Groups, the Demise of the But For Test and the Death of the Benign Motive Defence: R (on the Application of E) v Governing Body of JFS*, 39(2) INDUS. L. J. 183, 185–86 (2010)

The Equality Act of 2010 allows claims based on indirect discrimination, which is comparable to the disparate impact claim in the U.S.[79] There are two essential requirements to be satisfied. First, there has to be a "provision, criterion or practice" (commonly referred to as "PCP").[80] But this has been interpreted liberally to include "formal and informal practices, policies[,] and arrangements and may in certain cases include one-off decisions."[81] It is significantly much broader than the disparate impact claim in the U.S. because U.S. courts will usually require "an affected group";[82] but the U.K. Employment Appeal Tribunal has held that "there is no necessity for the impugned PCP actually to apply, or be applied, to others."[83] Such a wide definition might be able to cover interpersonal situations like those in *Dollman*, as the argument can be made that the act of telling the complainant not to use English jargon or English humor is an informal requirement.

Nevertheless, the claim would still fail under the second requirement. The complainant has to establish that the practice puts persons of the same "protected characteristic" (i.e. race) "at a particular disadvantage when compared with persons with whom B

(" . . . [T]he Supreme Court addressed the meaning of racial group where several sub-groups are involved.").

79. The English courts also use the term "disparate impact." *Essop v. Home Off.* [2017] UKSC 27, ¶ 28 (Apr. 5, 2017).

80. Equality Act of 2010, c. 15 § 19(1-2) (Eng.).

81. *Lamb v. The Business Academy Bexley*, [2016] EAT 0226_15_1503 ¶ 26 (Mar. 25, 2016) (noting that the complained act generally has to have an "element of repetition"); *Nottingham City Transp. Ltd. v. Harvey*, 2012 WL 4888957, ¶ 20 (Oct. 5, 2012) ("A one-off application of the Respondent's disciplinary process cannot in these circumstances reasonably be regarded as a practice; there would have to be evidence of some more general repetition, in most cases at least.").

82. *See generally* U.S. DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION, TITLE VI LEGAL MANUAL 89 (2016) (recommending that federal agencies engaged in Title VI investigations balance the benefits and harms to the affected group).

83. *British Airways Plc. v. Starmer*, 2005 WL 1997733, ¶ 13, 18, 19 (July 21, 2005) (noting that on the facts of this sex-discrimination case where the employer refused to switch to part-time work with 50% workload to that of full-time work, it was a one-of management decision applicable only to the postpartum complainant, but not to others; the tribunal acknowledged that this might heighten the difficulty of proof and "[i]f the particular nature of the PCP creates a difficulty or an anomaly in the creation or collection of relevant statistics (and these were after all provided by the Respondent and at the instance of the Claimant), then that may simply mean that it may be the more difficult to show that the PCP is discriminatory.").

does not share it."[84] This cannot be proved in most circumstances because the protected characteristic is "race," not "region." The regional discrimination does not necessarily go against all Whites, as elaborated above when discussing the U.S. context.

IV. CHINA IS A NOTEWORTHY JURISDICTION THAT PROHIBITS REGIONAL DISCRIMINATION

Two broad types of regional discrimination have happened in China: system-based regionalism and stereotype-based regionalism. In terms of system-based regionalism, China operates a "Hukou" system, which, in the simplest terms, is a residency permit for each city.[85] Having a local residency permit is more beneficial than not having one because the residency permit governs access to that specific city's public services.[86] The *Hukou* system allows the

84. Equality Act 2010, c. 15 § 19(2)(b) (Eng.).

85. Jie Chen & Mingzhi Hu, *City-Level Hukou-Based Labor Market Discrimination and Migrant Entrepreneurship in China*, 27(5) TECH. & ECON. DEV. ECON. 1095, 1097 (2021) ("Since the success of the communist revolution in China in 1949, the Chinese government has retained extremely tight controls on migration across regions through the management of the hukou system and under this system all citizens have to register their hukou location (either local or non-local) and hukou type (either rural or urban) . . . the hukou system in China was equivalent to an internal visa arrangement to control internal migration and particularly, rural hukou holders were forbidden to migrate into cities without government permission"); Wen Fan et al., *Stigma, Perceived Discrimination, and Mental Health During China's COVID Outbreak: A Mixed-Methods Investigation*, 62(4) J. HEALTH & SOC. BEHAV. 562, 565 (2021) (noting that the hukou number allows others to know the person's birthplace and explaining that, even after internal migration, "hukou does not change automatically with geographical mobility.").

86. Chen & Hu, *supra* note 85, at 1098 ("First, migrants are almost excluded from local public services and social benefits that directly or indirectly associated with hukou status such as social security, subsidized housing, and children's access to local public schools. . . . Second, migrants have less employment opportunities and their salaries are generally lower than otherwise comparable natives in the urban areas. Migrants are often not eligible to apply for positions in public sectors and state-owned work units."); Zheng Yangpeng, *What Does China's Move to Relax Hukou Residency Curbs Mean for the Property Sector?*, S. CHINA MORNING POST (Apr. 11, 2019), https://www.scmp.com/property/hong-kong-china/article/3005615/what-does-chinas-move-relax-residency-curbs-mean-property ("Migrants without a local hukou, even after years of living and working in one city, are often denied access to education and healthcare benefits reserved for permanent hukou holders."); Wen Fan et al., *supra* note 85, at 565 ("[hukou] is needed for almost everything, including entering school, accessing welfare, and registering marriage,

identification of internal migrants from less developed regions and becomes a prong for regional discrimination.[87]

Another form of regional discrimination is stereotype-based, which is nearly identical to the stereotyping of the North-South division in the U.K. and U.S. For example, people from Henan province are the most common victims of regional discrimination, as they "are stereotypically portrayed by the media as 'dishonest.'"[88]

In light of this, China sanctions regional discrimination in the employment context.[89] Interestingly, there are no international law

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effectively a tool for migration control and mass surveillance" and noting that during the Covid-19 pandemic, Hubei province was hit hard fueling regional discrimination, and "news reports abound that Hubei-origin people were denied access to accommodations regardless of their health conditions" after knowing their Hubei-origin from their identity documents).

87. *Many Chinese Suffer Discrimination Based on their Regional Origin*, *supra* note 51 ("[the hukou system] allows officials to discriminate openly against migrants from other parts of China in government employment and the provision of public services."); Chen & Hu, *supra* note 85, at 1097 ("The institutional discrimination and social hostile against migrants in urban China, referring to those without local hukou in the host cities, has long discussed in the literature").

88. Altman Yuzhu Peng, *Amplification of Regional Discrimination on Chinese News Portals: An Affective Critical Discourse Analysis*, 27(5) CONVERGENCE 1343, 1344–46 (2021) (noting the national-scale of this regional discrimination: "outside of Henan Province, the media usually emphasize the place of origin of Henan suspects by describing the fraud suspects as 'Henan fraudsters'. Such a referential instance portrays the dishonest characteristics of a small number of fraud suspects as a quality shared by the entire Henan population. It constructs a 'dishonest' stereotype of Henan people that has tarnished their reputation within the country."). The cause for this could be traced to historical, socio-economic development. Peng explains that "the eastern provinces, where the annual income of local households is the highest in the country . . . have become the most developed part of China. Against this backdrop, living in the eastern provinces becomes associated with a 'privileged' social status. . . . This association has widened the gap between Chinese people from the east and those from the inland provinces, providing the socioeconomic grounding for regional discrimination today. Henan, in particular, is the most populous inland province, and more than half of its population is employed in the low-income rural economy. . . . For better lives, many Henan peasants move to eastern cities, becoming migrant workers employed in labor-intensive industries," but which thereby gives rise to the regional discrimination.

89. Regional Ethnic Autonomy Law of the People's Republic of China, art. 9 ("State organs at higher levels and autonomous agencies in ethnic autonomous areas uphold and develop the socialist relationship of equality, unity and mutual assistance among all of China's nationalities. Discrimination against and oppression of any nationality is prohibited; any act which undermines the unity of the nationalities or

obligations requiring such protection and Anglo-American jurisdictions have not offered this much-needed protection. China, however, has taken the lead to address this problem.

In a ruling from the Hangzhou Internet Court, a job applicant was rejected because of her origin from the Henan province.[90] While regional discrimination is not explicitly included in the employment statute, the Court nevertheless accorded a wide interpretation to the open-ended "etc." of the grounds of discrimination, and held that her right to equal employment was infringed.[91] The Court reasoned that a person's regional origin is an innate trait beyond choice and control, and is therefore an unjust and irrelevant hiring criteria.[92] Interestingly, the Court further remarked on other potentially unfair criteria, such as horoscope and surname.[93] Infringing on the plaintiffs right to equal

instigates national division is also prohibited.").

90. *Yan Jialin v. Zhejiang Sheraton Resorts Co., Ltd.*, CLI.C.419510893(EN) (May 15, 2020), case summary excerpted in *Yan Jialin v. Zhejiang Sheraton Resorts Co., Ltd.*, (Sup. People's Ct. 2022) CLI.C.419510893(EN) (Lawinfochina); *see generally* Zhenhuan Ma, *Resort Loses Discrimination Suit, Must Pay 10,000 Yuan*, CHINA DAILY (Nov. 27, 2019), https://www.chinadaily.com.cn/a/201911/27/WS5dddd66da310cf3e3557a47b.html (full judgment not available in English) (highlighting that Yan Jialin will receive compensation because her place of origin was the primary reason her two applications were rejected); *see also* Zhenhuan Ma, *Job Seeker Sues Hotel for 'Regional Discrimination'*, CHINA DAILY (Nov. 12, 2019), https://global.chinadaily.com.cn/a/201911/12/WS5dc9f067a310cf3e35576b77.html ("The company's human resources department allegedly rejected Yan's applications because she was from Henan, listing her place of origin as the main reason for its decision.").

91. Employment Promotion Law of the People's Republic of China, CLI.1.96793(EN), art. 3 (effective Jan. 1, 2008) ("Workers shall have the right to equal employment and to choose job on their own initiative in accordance with the law Workers seeking employment shall not be subject to discrimination based on factors such as ethnicity, race, gender, religious belief etc."); Zhenhuan, *Resort Loses Discrimination Suit, Must Pay 10,000 Yuan*, *supra* note 90 ("[T]he presiding judge said after the hearing that the right to equal employment opportunities is one of the basic rights of citizens and is protected by law.").

92. *Yan Jialin v. Zhejiang Sheraton Resorts Co., Ltd.*, (Sup. People's Ct. 2022) CLI.C.419510893(EN) (Lawinfochina) ("Where, in employing personnel, an employer disparately treats an employee without any justifiable reason on the basis of such factors having no positive connection with "internal requirements of a job " as region and gender, such treatment constitutes discrimination in employment.").

93. *See id.* ("The resume delivered by Yan Jialin includes name, render, birth date, registered permanent residence, city of current residence, and other basic personal information.").

employment in turn also constitutes an erosion of her "personality right" under the Chinese Civil Code—that the Court understood in terms of "dignity": it demands equal treatment free from discrimination.[94]

This ruling has an authoritative status, as it is listed as a "Model Case."[95] Besides, the ban on regional discrimination in the employment context was confirmed by government officials, which strengthened its political correctness.[96] Most importantly, the highest Supreme People's Court issued a legal opinion in 2022 that explicitly emphasizes the prohibition on regional discrimination in the employment context.[97]

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94. Minfadian (民法典) [Civil Law Code of the People's Republic of China] (promulgated by the 3rd Session of the 13th Nat'l People's Cong., May. 28, 2020, effective Jan. 1, 2021), art. 991 ("The personality rights of persons of the civil law are protected by law and free from infringement by any organization or individual.").

95. *Case No. 5 of Fourteen Model Cases of the People's Courts Serving and Safeguarding the Integrated Development of the Yangtze River Delta Published by the Supreme People's Court*, LAWINFOCHINA.COM, https://lawinfochina.com/display.aspx?lib=case&id=5607 (last visited Dec. 2, 2023).

96. Cao Yin, *China Warns Against Discrimination Toward Hubei Laborers*, CHINADAILY.COM.CN (Apr. 11, 2020), https://global.chinadaily.com.cn/a/202004/11/WS5e91329da3105d50a3d15761.html ("The behavior of some employees who refuse to hire those from Hubei, the province hardest hit by the ovel coronavirus, or fire these people should be inspected and rectified in line with the law, cording to Guo Linmao, an official with the Legislative Affairs Commission of the Standing Committee of the National People's Congress, the country's top legislative body."); *Cf.* Rhee & Scott, *supra* note 3, at 545 (noting that locational prejudice is the last form of geographic discrimination that is apparently "politically correct" in the U.S.).

97. Opinions of the Supreme People's Court on Providing Judicial Services and Guarantees for Accelerating the Construction of a Unified National Market (authored by the Sup. People's Ct., July 14, 2022, effective July 14, 2022) art. 18, 2022 Sup. People's Ct. 22 (China) (Not available in English). In light of the disruption caused by the pandemic, the Supreme People's Court also issued a legal guidance in 2020, still valid today, stating that the courts will not allow (unfair) dismissal of persons solely based on the reason that they come from a region that is hit more severely by the pandemic—i.e. another form of regional discrimination in the employment context. *See* Notice by the Supreme People's Court of Issuing the Guiding Opinions (Part I) on Several Issues of Properly Hearing Civil Cases concerning the COVID-19 Pandemic (authored by the Sup. People's Ct., April 16, 2020, effective April 16, 2020) art. 4, CLI.3.341499(EN) (Lawinfochina) ("If an employer claims rescission of labor relationship with a laborer merely on the ground that the laborer is a confirmed COVID-19 patient, a suspected COVID-19 patient, an asymptomatic infected person, or a person staying in quarantine, or the laborer is

One crucial observation is that the prohibition was laid down by the Court in 2019 and was restricted to the employment context.[98] The fact that the same prohibition was upheld and reinforced in 2022 vitally indicates that the rule has been working smoothly for the society. China has a practice of testing the feasibility of a policy by limiting its scope of application—known as *shidian* (i.e. policy experiment) in the Chinese policy process.[99] If a policy is maintained, it is a positive signal of its feasibility from the governance perspective.[100] This demonstrates the value and feasibility of this ban for other countries.

V. CONCLUSION

It is not clear why there is no protection against regional discrimination. In effect, the lack of legal protection implies that the shared national origin between the discriminator and the victim

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from an area with a relatively severe pandemic situation, the people's court shall not support such a claim.").

98. *Yan Jialin v. Zhejiang Sheraton Resorts Co., Ltd.*, (Sup. People's Ct. 2022) CLI.C.419510893(EN) (Lawinfochina) ("Where, in employing personnel, an employer disparately treats an employee without any justifiable reason on the basis of such factors having no positive connection with 'internal requirements of a job' as region and gender, such treatment constitutes discrimination in employment. If the employee claims the employer to assume the corresponding legal liability on the ground that his or her right to equality in employment is harmed, the people's court shall support such claim."). *See generally* Zhenhuan, *Job Seeker Sues Hotel for 'Regional Discrimination'*, *supra* note 90 ("workers seeking employment shall not be discriminated against because of their race, ethnicity, gender, religious belief or place of origin.").

99. *See generally China Has a Celebrated History of Policy Experiments*, THE ECONOMIST (Apr. 9, 2022), https://www.economist.com/finance-and-economics/2022/04/09/china-has-a-celebrated-history-of-policy-experiments (describing how Chinese communists before 1949 engaged in policy experimentation in particular villages or "experimental points" before launching such policies across the entire territory). *See also* Shaoda Wang & David Y. Yang, *Policy Experimentation in China: The Political Economy of Policy Learning*, *in* NATIONAL BUREAU OF ECONOMIC RESEARCH WORKING PAPER SERIES 6, 7 ("The most pervasive form of policy experimentation in China is the selection of 'experimentation points' (*Shidian*)").

100. Sebastian Heilmann, *From Local Experiments to National Policy: The Origins of China's Distinctive Policy Process*, 59 CHINA J. 1, 11 (Jan. 2008) (discussing "that one of the core purposes of 'experimental points'" was to "'bring welfare to society by making use of scientific patterns that have been discovered through practice'").

absolves the normative wrongfulness of the discrimination.[101] However, this is not a compelling argument as it fails to account for other impermissible discrimination when being of the *same* race, gender, etc. is no defense to intra-group discrimination.[102]

Rather, regional discrimination unquestionably fulfills all of the criteria for proscription. The major goal of anti-discriminatory law is to prevent differential and unfair treatment based on immutable traits.[103] An immutable trait would be one that an individual cannot freely choose, such as an attribute that is inherent from birth and not subject to change.[104] It also cannot be changed subsequently and has no relevance to "one's ability to contribute to society."[105] A person's regional origin would be a clear example of an immutable characteristic; therefore, it deserves legal protection.[106]

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101. *See* Diaz, *supra* note 2, at 650–51 (discussing Title VII of the Civil Rights Act in the United States, stating: "By failing to account for subnational differences within the United States, Title VII permits employers to discriminate on the basis of regional differences, touting a shared 'American' origin as a shield.").

102. *Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 79 (1998).

103. *See* Sharona Hoffman, *The Importance of Immutability in Employment Discrimination Law*, 52 WM. & MARY L. REV. 1483, 1488 (2011) (arguing that, in the context of anti-discrimination mandates in American employment law, "immutability more accurately describes the characteristics protected by the employment discrimination statutes" rather than solely protecting minority groups). *But see* Angela Clements, *Sexual Orientation, Gender Nonconformity, and Trait-Based Discrimination: Cautionary Tales From Title VII & An Argument for Inclusion*, 24 BERKELEY J. GENDER, L. & JUST. 166, 175 (2009) (arguing for more flexibility in identifying traits deserving of protection, as opposed to "Title VII's insistence on immutability before certain types of trait-based discrimination associated with race and national origin are prohibited").

104. *See* Nicholas Serafin, *In Defense of Immutability*, 2 BYU L. REV. 275, 281–82 (2020) ("[S]ex, like race and national origin, is an immutable characteristic determined solely by the accident of birth . . . "); *see also* Jessica A. Clarke, *Against Immutability*, 125(2) YALE L. J. 1, 9–10 (2015) ("The old immutability assumed that certain traits, like race and sex, were not blameworthy on account of being 'accidents of birth.'") (footnote omitted).

105. *See* Serafin, *supra* note 125, at 284 (implying that most immutable characteristics have no relevance to one's ability to contribute to society by saying "*[S]ome* immutable characteristics, such as intelligence or physical disability, do not receive protection because, unlike race or sex, intelligence and physical disability may be relevant to job performance or to one's ability to contribute to society.") (emphasis added).

106. *See* Rhee & Scott, *supra* note 3, at 533 (discussing a human rights ordinance passed by Cincinnati, Ohio, that protected a regional group – Appalachians – against

Besides, there are other considerations which would support a ban on regional discrimination. Regional origin denotes an individual and collective identity that should be respected in order to uphold diversity.[107] To undermine one's identity via discrimination would affect one's "personality." [108] Locational discrimination also affects one's right to a private life (pursuant to the rights to family life and privacy) in many ways. For example, one may refrain from choosing certain discriminated regions as the place to establish home and to start a new family;[109] thus, the discrimination may prevent them from freely expressing their choice of regional origin.

Furthermore, regional discrimination can be used as a pretext for prohibited forms of discrimination. Although one may be able to find distinctions between this and racial discrimination, they resemble each other in many senses and situations, as highlighted in Section II. Moreover, Rhee and Scott highlighted that regional discrimination could worsen racism, because it (i) encourages the act of stereotyping, and (ii) it could also be used to whitewash White privilege by making fun of Whites through regionalism.[110]

From another perspective, addressing regionalism has spillover benefits of dealing with other social issues. First, it will curb classism given their overlap.[111] Second, it also helps avoid the politically sensitive issue of classifying an act as intra-racial discrimination.[112]

Yet, there is, very disappointingly, no protection under Anglo-American laws despite the occurrence of regional discrimination. A possible reason for the lack of Anglo-American protection is the lack

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discrimination).

107. *See* Ma, *supra* note 90 ("Zhang Wanhong, a law professor at Wuhan University in Hubei province, said discrimination against people from particular regions, which should not be allowed in a civilized society, infringes on their dignity and rights.").

108. G.A. Res. 217 (III), Universal Declaration of Human Rights, art. 29 (Dec. 10, 1948).

109. *See* Rhee & Scott, *supra* note 3, at 545 (discussing locational prejudice in the United States as possibly the "last politically correct form of discrimination in the United States" and the negative treatment associated with living in certain areas).

110. *See id.* at 572 (arguing that "stereotyping White Appalachians actually provides pretextual support for racism against African Americans.").

111. *See supra* Section I.C.i.

112. *See supra* Section III.B.

of coverage by international law, which undermines the perceived urgency and importance of such protection. The international momentum for regional discrimination protection is evidently growing, as academics have already been pressing for the elimination of the analogous problem of classism. Therefore, international law should include "region" as a protected characteristic, especially when regional discrimination happens in many countries.[113] But there is no need to wait for international law to act first, especially considering that China has already taken the lead in sanctioning such invidious discriminatory acts based on region. Regional discrimination is undoubtedly a notable social problem, and the U.S. and other countries should not lag behind in promoting equality.

113. *See* Sattar, *supra* note 121, at 759 (discussing Indian regionalism and the fact that British imperialists "deliberately encouraged the people of various regions to think in terms of their region rather than the nation as a whole, with a view to maintain their hold over India during the national movement.").