



*omnem sollicitudinem vestram proicientes in Eum,
quoniam Ipsi cura est de vobis. 1 P. 5:7*

洵湧波濤莫驚怕，平安抵岸全靠祂。

各位尊敬的議員：

「2004 年教育（修訂）條例」一年前通過了。我們以為李局長應該滿意了，留下來要做的該是：我們各自努力，準備面對那法例所定的 2008 年的檢討，去澄清那法例是否是最好的、甚或唯一的、推進校本管理的方法，抑或別的方法，例如教統局七號報告書所建議的雙層架構，能一樣好、或更好地促進校本管理。

可是李局長不能等到 2008 年，更不能尊重法例所定期限，他要趕盡殺絕，強逼我們馬上就範，接受新法例的一刀切方式。他提出了三個極不公道的措施，獎勵立即將校董會法團化的學校，變相懲罰我們。他說這不是歧視，因為我們同樣可以馬上將校董會法團化而得到那些利益，那也就是說我們絕對有自由選擇受獎勵或被懲罰。但我們的選擇是合法的，為什麼因此要受懲罰呢？

大家知道法例在立法會通過是怎麼一回事。政府在立法會有充份票數支持，任何法例都不難通過。但因為反對的聲音太強烈，為免基本法 23 條事件重現，政府接受了 2010 年的期限，2008 年的檢討，及可能延至 2012 年的期限，這也就是說法例裡有「內在的保留」，這「內在的保留」在法律通過時也成了法律的一部份，尊重法例也應該尊重法例的這一部份。李局長應該尊重我們全體天主教學校選擇了在限期未到前不將我們學校的校董會法團化。

教統局有責任執行法例，但不應該超越法律。這有「內在保留」的法例並不要求大眾興高采烈盡快去執行，也沒有要求、而且也不允許教統局催迫任何學校在限期未到前一定要將校董會法團化，或因不就範而受到懲罰。

法例通過並不等於政府在呈上法例草案時的意願也得到贊同，更不等於政府在辯護草案時的一切理據也得到認同。

我們今天還堅持：新法例使我們已不能確保在我們天主教學校裡繼續按我們的理念辦學。

我們還堅信：有其他、有別於新法例的方法，一樣可以甚或該好地推進校本管理（例如教統會七號報告書建議的雙層架構）。

我們還絕對否認法團校董會更有透明度、更問責、更有制衡 (check and balance)。

我不會在這裡重覆那些辯論，有興趣的可以參考我們收集了的一些文章。

至於說：不將校董會法團化的學校更易濫用公款，所以不應享受用資金的靈活性或自主權，那簡直是侮辱多年出錢出力幫政府辦學的忠誠夥伴。

其實我們還堅持新法例違反基本法 141 條，既然教統局用三項不公正的措施逼我們立即執行這違反基本法的新法例，我們在此嚴正聲明：如果教統局不明文答應在有關三方面（開動費，靈活用資金，買責任保險）都一視同仁，如果教統局作出任何一項措施、祇給利益於有法團校董會的學校而歧視不將校董會法團化的學校，我們決定申請司法覆核。



陳日君主教
天主教香港教區

Honorable members of the Legislative Council,

The “Education (Amendment) Ordinance 2004” was passed almost one year ago. We thought Professor Arthur Li could congratulate himself and be happy. It would only remain for us to prepare for the review, scheduled for 2008, which will examine whether the ordinance is the best and only way to promote school based management in our schools, or if there are other methods that are equally or more effective for the purpose, like the two-tier structure proposed by the Report No.7 of the Education and Manpower Bureau (EMB) in September 1997.

But our honorable secretary for the EMB hasn't the patience to wait until 2008 or to respect the time limits contained in the law. He wants a full victory, forcing us to submit to this draconian new law. He has presented three proposals to the Legislative Council for approval. These proposals, by which Secretary Li intends to award grants to schools that have their management committees incorporated immediately, are very unfair as they indirectly punish our schools.

Secretary Li says this is no discrimination, because we all have the freedom to adopt the IMC (incorporated management committee) and be rewarded. Meaning we have the freedom to choose between reward and punishment. But if our choice is legal, why should we be punished?

Everybody knows what it takes for a law to be passed, it is almost taken for granted when the government is sure to have the support of a sufficient number of “declared and faithful supporters”.

In the case of the ordinance, because of the strong dissenting voice, the government accepted the time limit of 2010, the review in 2008 and the possible extension of the time limit to 2012 in order to avoid a possible repetition of what happened with Article 23. This means the ordinance contains a “self imposed” reservation; this reservation, with the passing of the legislation, has become part of the law and as such, must be respected. Arthur Li must respect the choice we, all the Catholic schools, have made of not having the management committees incorporated before the time limit allowed by the ordinance.

The EMB has a duty to execute the law, but not to go beyond it. The “built-in” reservation of the ordinance makes unlawful the interpretation that all schools should

happily adopt the proposed management structure as soon as possible; it doesn't demand – nay, it doesn't allow – the EMB to push all schools to have an IMC and to punish those who resist.

The passing of the law doesn't mean approval of government's subjective intention in proposing it, much less the ratification of all the assumptions the government presented as justification.

Even today we still affirm that the new ordinance will deprive us of the guarantee that we can still run our schools according to our vision and mission.

We still believe that other methods, different from the one proposed by the ordinance, like the two-tier structure proposed by Report No.7 of EMP, can be good, even better for fostering school-based management.

We refuse to agree that IMC would enhance more transparency and accountability or would provide for more checks and balances.

(I am not going back to those discussions; you may consult our printed material).

To say that the non-IMC schools are more likely to misuse government funds is an insult to faithful partners who for so many years have invested money and human resources in helping the government run schools.

We still insist that the new ordinance is in contravention to Article 141 of the Basic Law. Now that the government is pressuring us to accept IMC by adopting three unfair, discriminating arrangements, we solemnly declare:

If the government doesn't explicitly promise to grant the three concessions (one-off-subsidy, flexibility in using government funds and insurance coverage) without discrimination to all aided schools, if the government grants any one favour to IMC schools only and not to non-IMC aided schools, we will have no choice but to apply for judicial review.

Bishop Joseph ZEN, SDB
Catholic Diocese of Hong Kong

20 June 2005

Hon Professor Arthur K.C. Li, GBS, JP
Secretary for Education and Manpower
Education and Manpower Bureau
8/F., Central Government Offices, West Wing,
11 Ice House Street, Central, Hong Kong.

June 1, 2005

Dear Professor Li,

Reference is made to both letters, one dated 17 January 2005, another 4 April, by which Mr. M.Y. Chang replied on your behalf to my letters.

I spare myself and you from a discussion on the “indoctrinating” part of said letters in which you still try to make me believe that the IMC is the best structure to enhance school based management, more transparency and accountability and quality education of the students. I hope you are familiar with the reasons why I disagree with you. You must also know why I strongly reaffirm that the new Ordinance has changed radically the way we run our schools, because it takes away from us the real possibility to direct and supervise their functioning according to our vision and mission.

The only thing I want to mention to you in this regard is that the approval of the Ordinance by the Legislative Council is no proof of the correctness of your assumptions behind it.

The purpose of this letter is, instead, to question the way you intend to push for the execution of the Ordinance.

There are measures mentioned in your letters which are obviously good and right; like: the launch of a web-based legal support service to schools for setting up IMCs, the provision of samples and guidelines including a sample IMC Constitution, training for school managers. But there are three points on which I intend to question your proposals:

(1) You would give the schools which are setting up IMC a one-off cash grant against the expenses they may incur in the process, such as professional advice. This would be fair enough. But it was referred to us that you would give such grant only to schools who set up the IMC now or in the following two years. We cannot understand why. Those who set-up the IMC later would need and deserve the same grant!

(2) You would devolve greater flexibility and autonomy to schools with IMC in using the Government funds, but not to other schools. Why? Are IMC schools, which will be each one on its own and with likely contrasting interests within, more reliable in administering funds than the well experimented Schools Sponsoring Bodies, which have, for so many years, proved to be responsible and efficient administrators?

(3) You would purchase professional liability insurance cover for IMC schools and their managers and not for non-IMC schools. This is even more obviously discriminatory. All managers of schools who are approved by the Government, duly registered and offer their voluntary service for schools, equally deserve to be protected by such insurance.

Dear Professor Li, your insistence, after my repeated warning, in adopting such unfair measures to entice schools to set up IMC, leaves us with no choice but to take legal action to defend the rights of our schools and of their managers (many of them are teachers, parents and alumni).

It is regrettable that you should take such vindictive action against us, while we are legitimately using other ways to promote school-based management and greater participation in our schools, during this period allowed by the Ordinance.

You are damaging beyond repair the long partnership between the Government and us, the sponsoring bodies of schools. May God have pity on this our beloved city.

Yours faithfully

(Most Rev. Joseph ZEN, SDB)
Bishop of the Catholic Diocese of H.K.

致：明報

六月二日 貴報對新一場教統局與多個辦學團體之間的糾紛報告得相當準確，恭禧。恭禧。

不過對 貴報當天的社評「落實校本條例宜先獎後罰」的內容，本人卻未敢完全苟同。

(一) 獎、罰固然是鼓勵和阻嚇的好方法，應鼓勵的當然該是該做的事，應阻嚇的當然該是不該做的事。但「2004年教育（修訂）條例」並沒有說學校「應該」「盡早」成立法團校董會，否則，為什麼法例把執行的限期推到2010年（將來或會再延遲至2012年）。法例的原意很明顯，它給各辦學團體自主權去決定何時參與這計劃；況且法例預定在2008年對自己作出檢討，表示法例對自己有所保留，所以絕不需要所有學校興高彩烈的趕快執行它。

政府不必獎勵早日執行法例的學校，相反，如果到了限期而有學校不執行那末倒是該罰的，我看不到怎麼會有「有法不能行的局面」。

評文說「法律已通過，天主教也要尊重這條法例」。天主教選擇期限到時才執行，完全尊重法例。評文又說「政府設法落實校本條例是負責任的做法」。但「設法落實」並不等於「強逼催促」。政府獎勵那本不必獎勵的，間接也就是懲罰了那本不該受懲罰的。

偽善的政府連「獎」「罰」兩字也不敢用。那明明是用來「利誘」的、一次過的、現金津貼、卻說成是「用於僱用專業的法律及會計服務、聘請合適人員，舉辦校本訓練課程，以及支付所需的費用」的「實報實銷」的津貼。如果真是這樣的津貼，那末不應該有限期，決定在2009/2010年才法團化的校董會也需要和應該得到這筆津貼。

(二) 很高興看到 貴社評贊同學校各類津貼早該統合簡化；靈活性和自主權該一視同仁給所有學校，祇給校董會法團化的學校是不公平的。

(三) 不過 貴社評沒有提到那最明顯的歧視：政府已祇為法團校董會及其校董投購責任保險。我們未法團化校董會的校董不是一樣受政府認可、向政府註冊、為政府服務而該受到同樣保障的嗎？

陳日君
天主教香港教區主教
二〇〇五年六月三日