

Christian Action Feedback on the Race Discrimination Bill

(submitted on 9.1.2008)

1. Introduction

After a prolonged 15 years' of waiting the Bill was eventually tabled in the Legislative Council in December 2006. Based on CA's solid working experiences with ethnic minorities for over 10 years, we express our great concerns on the fair protection of ethnic minorities, especially those with low socio-economic status and less vocal groups, through an immediate and effective enactment of the Racial Discrimination Bill.

Being one of the key stakeholders in serving ethnic minorities in Hong Kong, Christian Action feels doubtful for the present proposed Bill could advance the interests and rights of the deprived ethnic groups. We appeal for the Administration to reconsider bring in clauses to forbid discriminative actions by all public services, set strict time-frame for the implementation of RDO, abort language exemptions, improve sunset clause and EOC's law enforcing role for RDO to alleviate the deprivation of ethnic minority in Hong Kong.

2. Major Suggestions for Bill Amendment:

a) Government should be bound by the Bill

- Government is obliged to take the lead to protect the victims and to safeguard and advocate the anti-racial discriminatory practices in Hong Kong. It would be disgraceful for the Administration to exempt herself from the proposed Bill as opposed to the current three Discrimination Ordinances (SDO, DDO, FSDO). Hence, the Administration ought to amend Clause 3 of RDO to bind all Government policies and actions.

b) Speed up the Legislation Process:

- As the public are generally in favour of the anti-racial discrimination legislation (as reflected in the public consultation held in 2004/05), the present Bill should be enacted immediately with proper amendments within the present LegCo tenure. The Administration should take up views expressed by LegCo members, ethnic minority groups and other stakeholders in the Bill Committee meetings and other forums

c) Abort Language Exemption in Essential Public Services:

- The Administration should uphold the bilingual provision of official languages in both

Chinese and English in essential public services offered by Labour Department, Education Bureau, Health Department, Hospital Authority, Social Welfare Department and Immigration Department.

- Officers of the above government departments and public bodies are not allowed to deny users' access to services on the basis of incompetence in mastering the usual working language as adopted by the departments..

d) Clear Definition of Indirect Discrimination

- To avoid ambiguity of indirect discrimination, it is vital to delineate a clear-cut definition of indirect discrimination should be adopted to ensure it is enforceable under the proposed RDO. For instance, it is unlawful for an employer not hiring an employee based on unreasonable skills demand other than genuine occupational skills, say requiring a cleaning worker with competence in reading and writing Chinese.

e) Sunset Clause for Small/ Medium Enterprise

- 3-year sunset clause for the small companies is too long. An eighteen month transition should be appropriate.

f) Power of Equal Opportunity Commission(EOC)

EOC is charge with the duties to ensure the implementation of RDO. In our experience in dealing with complaints cases lodged by migrant domestic workers under the existing discrimination ordinances, it is not uncommon that the cases could not further proceed as the migrant workers have been forced to leave the territory as EOC fails to solicit visa extension on behalf of the complainants. It is thus recommended for EOC to take up more responsibility to support the visa extension of the complainants while investigation on a racial discrimination is in process.

3) Other Suggestions for Core Improvements besides the Bill

a) Interpretation in Public Hospitals:

At present, it is not considered as unlawful if public hospitals are unable to provide full interpretation service to non-Chinese speaking service users. It would be shameful if the public healthcare sector does not treat this "life and death" issue in a responsible manner. In particular, medical mistreatment, delayed treatment in A & E, and EM patients' reluctance and lack of trust in our public healthcare service due to their incapability in mastering Chinese and English. It is strongly recommended Hospital Authority to introduce immediate remedy

measures.

b) Developing a Recognized Alternative Chinese Curriculum

To create an embracing environment to the EM community and acknowledging the immense difficulty for EM to learn the Chinese language, a simpler Chinese syllabus (similar to the GCSE and AL in UK) in HKCEE and A-Level (or the forthcoming Hong Kong Diploma of Secondary Education) should be introduced. This is a vital move to pave the route of capable EM to tertiary education. EM's successful achievement in English and Chinese as second language will enable them to proceed tertiary studies, application of civil services and subvented social service sectors for better contribution to the society.

Responsible Government Departments and Bureaus should take initiative to solicit support from institutions under the University Grant Committee for a flexi enrolment polices to EM applicants who are slightly below the normal admission level in Chinese language.

c) Chinese as a Second Language Policy

We support the Education Bureau's move to allow EM students to secure school places in mainstream schools. However, we would appeal to the Administration that extra resources and support should be allocated to primary and secondary education. This extra resource is vital to facilitate the designing and implementation of a tailor-made Chinese curriculum for non-Chinese-speaking students enrolled in mainstream Chinese medium schools. Small class teaching is recommended especially during the initial stage of EM students' integration in mainstream schools.

4) Conclusion and Way Ahead

Being a key stakeholder in rendering services to EM, CA is eager to have the RDO being enacted within the present LegCo tenure. We sincerely wish that the Administration and LegCo could accommodate the opinions and suggestions raised by all concerned parties. A well-accepted RDO is surely a positive sign for HK to become a caring and open cosmopolitan in accommodating the different cultures and customs of a multiplicity of races.