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Dear Sir

Your Ref; S/F

(2) to HAB/CR/1/34/68 Pt 2

Comments on

the Racial Discrimination Bill

Further to my personal comments which I have given during the ethnic minority's forum, I would like to make a few written comments as below.

Indian community is quite pleased that after several years, Government finally agreed to have anti-racism Law.

Anyway, here is a brief summary of the main problems with the Racial Discrimination Bill:

The number of exceptions, no other country has so many & too many exemptions in a law, would open the way for many arguments and calls for justifications.

The greatest problem is with the education exception:

(a) The requirement for language proficiency in education has been a matter of concern to the ethnic minorities. In this regard, the Government firmly upholds the right of children to education, irrespective of their race or ethnic origin. All children in Hong Kong have the right to nine years of free

and universal basic education. However, as stipulated in Clause 26(2) of the Bill, this does not compel the schools to modify its arrangements regarding holidays or medium of instruction in order to cater for students of any racial group.

Ethnic children will continue to face great problems in obtaining reasonable education.

(b) 26. Discrimination by responsible bodies for educational establishments
(1) It is unlawful for the responsible body for an educational establishment to discriminate against a person....

It should not only be unlawful for the educational establishment to discriminate against a person but also for students and teachers.

3. "Of particular importance, we aim to arrive at a regulatory regime which not only satisfies our policy objectives and international obligations, but also one which balances the divergent interests of the different parties and is reasonable in its justifications, practicable in implementation and acceptable to the people affected. "

How can there be any balancing of divergent interests?

4. "We have also been careful to ensure that the provisions in the law are clearly defined so as to minimize the risk of potential litigation that would pose unnecessary burden and disruptions to the society." - The main purpose seems to be to avoid potential litigation, rather than remove racial discrimination.

5 .To successfully tackle racial discrimination, it is necessary for Government to acknowledge that there is such a problem and to openly show commitment to removing it. The problem is Government's attitude in stating that that it will be solved through education.

In past we have discussed for several years LEGISLATION IS BEST TOOL FOR EDUCATION.

For example we have been educating people to keep Hong Kong Clean, No littering etc but it did not work. Eventually only when there was legislation, people were penalized for littering, things started working & now Hong Kong is much cleaner than before.

Similar rules proven to be successful are for Drinking /Driving etc.

Also we should take existing discrimination ordinance purely as guide line & we should not follow 100 % , for example "Sunset" clause, which gives three year grace period to SME, is unnecessary as the existing anti-discrimination laws had been in place already for several years hence the companies had plenty of time to get used to the laws. We believe three year period should be reduced to one year.

Government should promote the racial harmony, public education through different media.

We believe more members of ethnic minority to be appointed to advisory, statutory bodies, equal opportunities commission.

Enforcement policy, including standard of proof, code of best practice procedure etc should be well defined with more concrete examples of the definition of racial discrimination.

The bill is the outcome of several years of campaigning for racial discrimination to be outlawed

Now we have to wait & see how effective implementation is going to be.

Thanking you

Yours truly,

Manohar Chugh