

INSIGHT

Ageing problem

Lina Vyas says equality pledges in Hong Kong's bill of rights may be failing the age discrimination test

The ageing of populations is an unparalleled global occurrence, generating concern about labour and skills shortages in many countries. One way to address these concerns is to extend the working lives of older people through appropriate retirement, retention and recruitment policies.

Hong Kong only has a mandatory retirement age for the civil service, but most other sectors take this as a valid reference in establishing their retirement-age policies.

Since 2015, the government has taken active measures to extend civil servants' retirement age.

This includes extending the retirement age of new recruits to 65 (60 for the disciplined services) primarily against the backdrop of an ageing population. For existing employees, the status quo remained until very recently, that is, compulsory retirement at 60 for general civil servants, and 55 for the disciplined services.

Recently, the government has made provisions to allow them to stay on beyond the retirement age, subject to approval by heads of department, for a further 12 months, up to a maximum of five years in total. The new mechanism is long overdue and has just been

announced, despite an earlier Legislative Council paper stating that implementation would be finalised within the first quarter of 2016.

The new policy comes in response to calls from staff unions to extend the retirement age, and is in line with global trends. One major shortfall of the mechanism, however, is that it gives the line manager immense power and control over the fate of applicants. Moreover, those applying for an extension are denied the prospects of promotion.

Longer and secure working lives lead to greater opportunities for "active ageing". Conversely, job insecurity and low-status, poorly paid positions can be damaging to the health and well-being of older workers.

Shouldn't all employees have the right to enjoy this extension equally? Shouldn't the retirement age of all serving civil servants be extended, instead of putting in place an ambiguous mechanism? Is the treatment of civil servants in such cases an example of age discrimination? Have the decision-makers taken adequate legal advice? These are just a few of the questions to be addressed.

A survey by the Equal Opportunities Commission last year found up to 70 per cent of employees across

age groups and educational levels agreed on the need for legislation on age discrimination. Also, more than 60 per cent of the working respondents did not think there should be a mandatory retirement age.

In 2015, before he became EOC chair, Alfred Chan Cheung-ming recommended a review of age discrimination cases and legislation from local and regional jurisdictions, and stronger measures to prevent workplace ageism.

Unlike many other common law jurisdictions, including the UK, Hong Kong has no specific age discrimination legislation; the government merely has non-binding guidelines for employers and staff.

Article 22 of the Hong Kong Bill of Rights Ordinance says: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, 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 (emphasis added)."

Moreover, the Labour Department published a set of guidelines for employers on eliminating age

discrimination, but there is still no age discrimination legislation.

Are members of the disciplined services already subject to different treatment, given the lower retirement age? They have been offered a chance to apply for an extension of 120 days since March last year. Yet statistics indicate a strong desire to



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serve longer than the general compulsory retirement age of 55. Police staff unions have voiced the need to increase this to 60, to be on a par with their civilian counterparts.

The UK Equality Act, which came into force in 2010, prohibits discrimination on many grounds, including age, among comparable employees, unless fully justified. Age was considered within the range of "protected characteristics"

similar to gender, sexual orientation, race, and disability.

Whether there is unlawful discrimination against these "protected characteristics" very often depends on whether an employer can show its action was a "proportionate means of achieving a legitimate aim". Any justification defence for seeking to retire an employee at a set age should therefore be based on an objective and structured approach.

In Hong Kong, the new policy on extending civil servants' retirement age, which appears to be dominated by managerial and organisational needs, is very shallow and ambiguous. It lacks due consideration of the important legal principle relating to equality of treatment.

And while existing civil servants cannot initiate legal action owing to the absence of an age discrimination ordinance, the government decision for this policy, particularly the equality issues embedded in the existing ordinance, would appear vulnerable to judicial challenges, in the same vein as the landmark case on civil service benefits for those in a same-sex marriage.

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What has HK done to tackle climate change?

Benoit Mayer says the failure to join the battle against climate change, with excuses such as lack of space or the cost of clean energy, shows the city is not committed to sustainable growth

President Donald Trump's decision to withdraw the US from the Paris Agreement was unfortunate. A developed economy has a lot to gain from investing in clean energy. It also has a responsibility due to its contribution to climate change and its economic capability. Fortunately, other countries remain steadily committed to climate action.

But what about Hong Kong? Does its small size exonerate the city from any action at all? This line of reasoning has been the greatest impediment to climate action anywhere in the past quarter of a century, as every government thought its efforts would only have a negligible effect. Few countries did anything at all, and none enough to avoid the risk of a climate crisis.

We are taught not to litter: not because one piece of paper thrown on the street would have a big impact; issues would only arise if many did the same. We know we need to act as responsible citizens, displaying behaviour for all to adopt. But what credibility does the government have in asking us to act responsibly when it itself ignores global responsibilities?

Hong Kong joined the C40 Large Cities Climate Leadership Group in 2007. But it has since failed to complete any of the four phases of the initiative.

In September 2010, the Environment Bureau held a public consultation on an objective of reducing greenhouse gas emissions by 20 per cent by 2020. Yet, as of 2014, emissions had increased by 9 per cent.

In January, the bureau circulated Hong Kong's Climate Action Plan 2030+, a late effort to implement the Paris Agreement. The plan will be among issues debated by the Legislative Council environmental affairs panel in a meeting on June 26.

The Action Plan confirms an objective of a 20 per cent reduction in greenhouse gas emissions by 2020. Given the current trends, this appears highly unlikely. The plan also announces that emissions would peak and start decreasing "by 2020", which is inconsistent with achieving a sharp decrease within the same time.



As a large financial and transport hub, Hong Kong can galvanise action much beyond its territory

For the most part, the plan recycles measures that have already been adopted to reduce local air pollution, namely a shift from coal to gas in power generation and efforts to save energy. It also promises to develop renewable energy to cover 3 per cent of Hong Kong's power supply by 2030. This is lower than virtually any economy in the world – Singapore has promised 8 per cent; China as much as 20 per cent.

To achieve this 3 per cent supply of renewable energy, the action plan relies on the entry into service of a new waste incinerator. The incineration of non-organic waste is not a source of renewable energy. Burning coal or plastics makes no difference as far as the climate is concerned: both produce greenhouse gases which warm our planet. The plan offers no other concrete option to develop genuine renewable energy.

The government justifies its lack of climate ambition by mentioning the cost of investing in clean energy. This argument is as illegitimate and misguided in Hong Kong as it is in the United States.

Both economies have financial capacities – the lack of which has not prevented India from embarking on its own ambitious plan. Both have a lot to gain by developing technology and know-how in a central sector of the 21st-century economy.

Nor is lack of space a good excuse. Wind turbines can be built offshore. Solar panels can float on reservoirs. And as Hong Kong already imports water and nuclear energy from Guangdong, why could it not import renewable energy?

Its small size has not prevented Hong Kong from succeeding. As a large financial and transport hub, Hong Kong can galvanise action much beyond its territory for climate change mitigation. It could be a regional leader in the transition to a sustainable development model. Currently, it lags far behind.

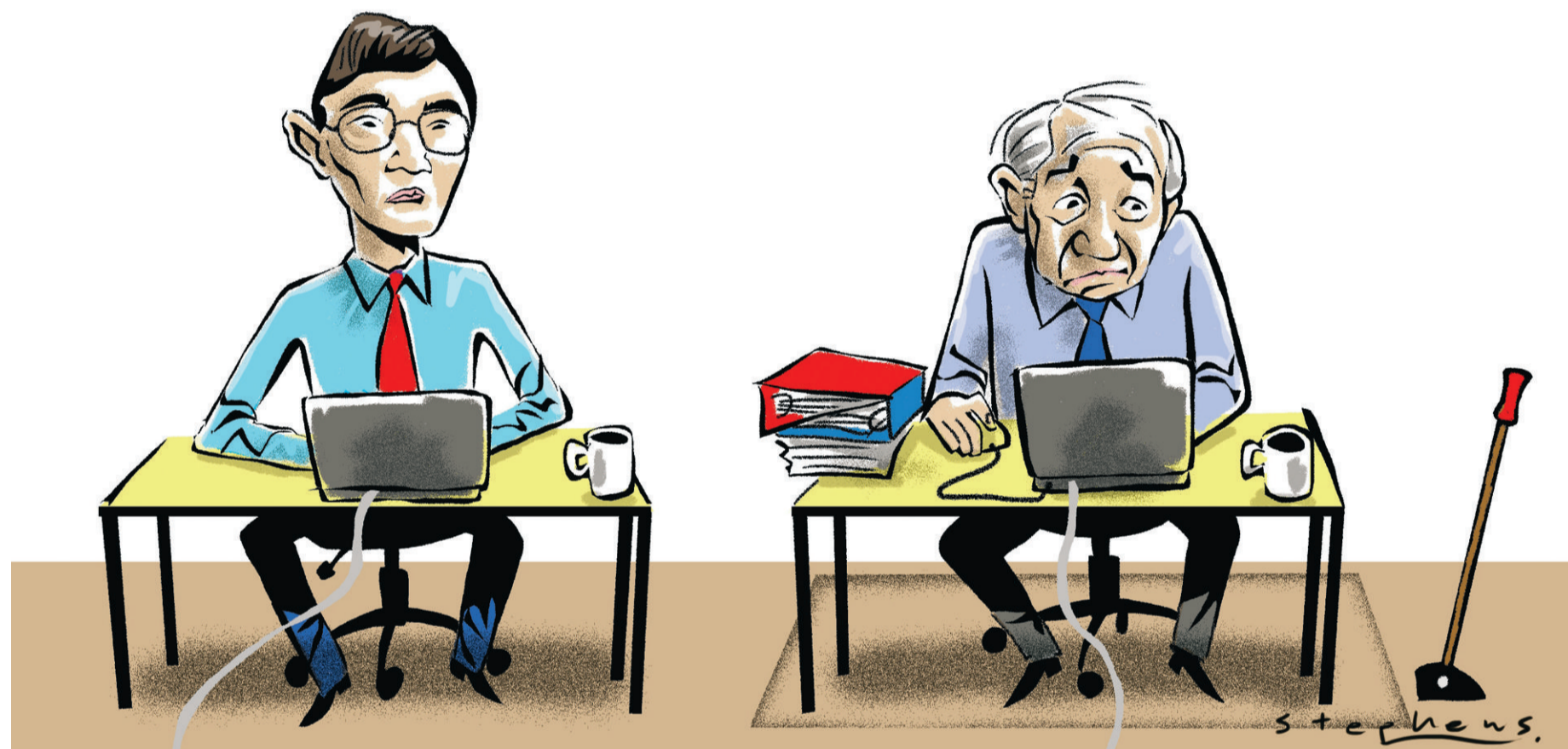
In his 1992 annual policy address, then governor Chris Patten highlighted the role that Hong Kong could play in addressing climate change and the economic opportunity this could represent. In the past quarter of a century, a few announcements were made, little was planned, nothing was done.

What is lacking is not money or space, but a sincere commitment to sustainable development.

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A rally by green group HK350 uses atomic bomb balloons to highlight the carbon crisis. Photo: Felix Wong



Time to rethink the meaning of dialogue and understanding

Alice Wu says the row over the Chinese University students' decision to boycott the annual June 4 vigil reveals a need for better communication and for our leaders to realise challenging is not opposing

The Chinese University of Hong Kong students' union took quite a beating over its decision not to take part in the annual June 4 vigil at Victoria Park. While other groups organised their own memorial events, the union drew fire for declaring that "the commemoration has come to an end". It later said it had no issue with people commemorating the event, only with its format.

Yet, we must not lose sight of how the student union arrived at these conclusions, even if we do not agree. The students questioned whether the annual vigil had become more of a ritual than a meaningful event, and whether it has morphed into something else.

We can disagree and debate, but accusing them of being "cold-blooded" or "lazy" doesn't help. This is an opportunity for the organiser to explain why it has carried on with these ritualistic elements, and communicate not only to the young, but to all, the reasons for going through the same motions year after year. In short, it must provide the meaning behind the "rites" that have developed.

Clearly, the union felt that those meanings are now lost on some people. If we can't question or are not allowed to reconsider the

meaning of the vigil, then it really does become just ceremonial.

Others have voiced frustrations over it before. They, too, challenge the notion that there is only one way to commemorate. We would like to believe that we teach students to question everything, to think independently and critically, outside the box. In that sense, their questions over the format, intent and purpose of the vigil are natural, and should even be encouraged.

For the community at large, this is an opportunity to rethink what meaningful dialogue entails. Perhaps the most ineffective way of communicating – and this isn't limited to the young – is telling people what to do or not to do.

Zhang Xiaoming (張曉明), director of the central government's liaison office in Hong Kong, recently took to the podium to lecture, not communicate. He said "there is a need [for young people] to correctly learn the relation between Hong Kong and the nation", because there is "a tide of separatist ideas in Hong Kong".

The security of Hong Kong's relation to the nation won't change just because people think or talk about localism or "separatism".

The thought police need not be deployed – the principle of "one

country, two systems" cannot be so easily shaken. Indeed, introducing a notion of "thought crime" does "one country, two systems" a lot more damage.

Outgoing Chief Executive Leung Chun-ying saw the June 4 controversy as an opportunity for young people to reflect on their Chinese identity. Chief executive-elect Carrie Lam Cheng Yuet-ngor called on people not to criticise the youngsters for commenting on current affairs or taking part in political activism.

Lam has pledged to make room for young people in policymaking by revamping the Central Policy Unit into more than just a research instrument – into one that takes on the role of facilitator in the public policymaking process, and to include more young people in it.

These responses have greater potential to facilitate real dialogue and better understanding.

Former Legislative Council president Jasper Tsang Yok-sing, who now teaches a new course on parliamentary practices and procedures at Chinese University, seems to be very comfortable with young people and his students' "challenges". He admits being challenged by his students, but to him, "challenging isn't opposing". Tsang sees his students' challenges as opportunities for him to be a better teacher. Surely all of us, not only students, can learn from this.

Alice Wu is a political consultant and a former associate director of the Asia Pacific Media Network at UCLA

Connect with youth power

Paul Yip and Yuan Ren welcome increased funding for youth education and training, as this will help Hong Kong be a belt and road 'super connector'

Most of the discussion on China's "Belt and Road Initiative" has tended to revolve around trade and business opportunities. Very little has been said about demographic dynamics – fundamental for the development of any country.

Over 62 per cent of the world's population lives in the 65 countries along the belt and road, but these nations have only a 30 per cent share of the global GDP. This represents enormous development potential.

However, some nations doubt China's intentions, and its ability to manage and implement this ambitious strategy, or assume it is a covert attempt to transfer excess manufacturing capacity. Amid rising protectionism around the world, how should China position its initiative and guide itself?

We believe the initiative should be promoted under the framework of globalised moral integrity, never as "neocolonialism in the 21st century". It should be based on equality and respect, under the philosophy of "coexisting, co-creating and co-sharing".

Discussing population and development along the belt and road at the recent Shanghai Forum, experts highlighted the pressures of an expanding youth population in Central and South Asia. This "population dividend" could create huge opportunities, with the necessary infrastructure and policy support. But we must also invest in young people's education and

skills training. If we fail to create high-quality and local young talent to enhance productivity, or the market is unable to absorb the extra labour force, this potential advantage may instead increase the chance of social instability due to high youth unemployment, as seen in some Western countries.

Economic development won't solve all geopolitical problems, but it can eliminate poverty, improve schooling levels and promote well-being. Countries can achieve long-term sustainable growth only if people's livelihoods are stable.

The Hong Kong community is still largely sceptical of the belt and road due to a lack of understanding of the countries involved. There is much work to be done to serve as an effective "super connector", as the chief executive has suggested.

We need to strengthen our role as a hub for labour, professional services, logistics, capital and information flows. How best to position Hong Kong is a challenge that needs our urgent attention.

It is pleasing to see the next administration allocating more resources to research and development, youth education and skills training.

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