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April 3, 2019

The Honorable Jeanette White, Chair
Senate Committee on Government Operations
Vermont Legislature
Statehouse
Montpelier, Vermont

RE: PR.2 – A constitutional amendment to eliminate the reference to slavery

Dear Chair White and Members of the Committee,

My name is Bor Yang and I am the Executive Director and Legal Counsel of the Vermont Human Rights Commission (HRC). The HRC has jurisdiction over claims of discrimination in housing, state government employment and places of public accommodations. The HRC achieves its mission by enforcing laws through investigations and litigation, conciliating disputes, educating the public, providing information and referrals and advancing effective public policies on human rights.

It is a momentous occasion for our legislators to consider this amendment. Thank you for all of your time, effort and deliberation on PR2.

The HRC strongly supports amending the Vermont constitution to eliminate all language relating to slavery. The language is obsolete and has been superseded by the U.S. Constitution. While the same reasoning may also support taking no action, this amendment serves a more important symbolic purpose: taking a measurable step towards building a restorative relationship with the descendants of slavery. It cannot be denied that the ramifications of slavery and Jim Crow laws have had lasting effects. African-Americans continue to experience hate crimes, bias incidents, racial profiling and be discriminated against in employment, housing, schools, hospitals and other places of accommodations. Over thirty years of studies on implicit bias tell us that we continue to discriminate against African-Americans in every aspect of our society.

Much has been made about the historical significance of maintaining the current language of the Constitution. But an amendment does not erase our history of being the first State to abolish slavery. Furthermore, if the majority of people who interpret the plain meaning of the Constitution as maintaining slavery for children, even if it is wrong because they are without the historical context that scholars and historians have, the amendment serves the purpose of eliminating this confusion.

In reviewing the most recent changes to PR2, the HRC encourages the Committee to eliminate all language after *slavery in any form is prohibited* (lines 16-17); specifically, language regarding

the right to serve as an *apprentice* or be bound by *law or payment of debts, damages, fines, costs or the like* in the constitution. By retaining this language, you potentially give it greater weight than it originally had.

In theory, a legal argument could be made that the right to serve as an *apprentice* or be bound by *law or payment of debts, damages, fines, costs or the like* was so important to our lawmakers that this right should not be impeded by human trafficking laws, criminal statutes that define consent, case law that would have rendered contractual terms null and void because they required service that would be unconscionable or against public policy if enforced (ex. prenuptial agreements). Generally speaking, courts are already reluctant to order specific performance in routine contractual disputes.

There are values that belong in the Constitution such as the right to free speech, marry, vote, bear arms. These are fundamental rights. And then there are values that are better addressed in statutes because they present complicated issues and are highly facts-specific. I suggest that language regarding apprenticeship and contractual obligations to work belong in the latter.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bor Yang", is written over the typed name.

Bor Yang
Executive Director and Legal Counsel