

立法會
Legislative Council

Ref : CB2/PL/SE+CB2/PL/AJLS

LC Paper No. CB(2)3048/02-03

(These minutes have been
seen by the Administration)

**Panel on Security and
Panel on Administration of Justice and Legal Services**

**Minutes of joint meeting held on Tuesday, 17 June 2003
at 10:45 am in Conference Room A of the Legislative Council Building**

Members present : Members of the Panel on Security

- Hon LAU Kong-wah (Chairman)
- # Hon James TO Kun-sun (Deputy Chairman)
- # Hon Albert HO Chun-yan
- Dr Hon LUI Ming-wah, JP
- Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
- Hon CHEUNG Man-kwong
- Hon WONG Yung-kan
- Hon Howard YOUNG, JP
- # Hon Ambrose LAU Hon-chuen, GBS, JP
- Hon Michael MAK Kwok-fung
- Hon IP Kwok-him, JP
- # Hon Audrey EU Yuet-mee, SC, JP

Members of the Panel on Administration of Justice and Legal Services

- * Hon Margaret NG (Chairman)
- Hon Jasper TSANG Yok-sing, GBS, JP (Deputy Chairman)
- Hon Martin LEE Chu-ming, SC, JP
- Hon CHAN Kam-lam, JP
- Hon Miriam LAU Kin-ye, JP
- Hon Emily LAU Wai-hing, JP
- Hon TAM Yiu-chung, GBS, JP

Member absent : Member of the Panel on Security

Hon Andrew WONG Wang-fat, JP

(# Also members of the Panel on Administration of Justice and Legal Services)

(* Also member of the Panel on Security)

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Members attending : Dr Hon David CHU Yu-lin, JP
Hon LEE Cheuk-yan

Public Officers attending : **Item II**

Mrs Regina IP, GBS, JP
Secretary for Security

Mr Timothy TONG, JP
Permanent Secretary for Security (Acting)

Mr Johann WONG
Principal Assistant Secretary for Security

Ms Winnie NG
Administrative Assistant to Secretary for Security

Mr Hubert LAW
Assistant Secretary for Security

Deputation by invitation : **Item II**

Research Team on the Compendium of Submissions on Article 23
of the Basic Law

Dr Jennifer CHAN
(Chairman)
Lecturer in Statistics & Actuarial Science, The University of Hong Kong

Dr CHAN Kin-man
(Member)
Lecturer in Sociology, The Chinese University of Hong Kong

Dr Sammy CHIU
(Member)
Lecturer in Social Work, Hong Kong Baptist University

Dr Boris CHOY
(Deputy Chairman)
Lecturer, The University of Hong Kong SPACE Community College

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Dr Robert CHUNG
(Hon. Secretary)
Director, Public Opinion Programme, The University of Hong Kong

Dr MA Ngok
(Member)
Lecturer, Division of Social Science,
Hong Kong University of Science and Technology

Dr Clement SO
(Hon. Adviser)
Lecturer in Journalism & Communication,
The Chinese University of Hong Kong

Clerk in attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

I. Election of Chairman

Mr LAU Kong-wah was elected Chairman of the joint meeting.

II. Categorization of views of organizations and individuals on specific proposals to implement Article 23 of the Basic Law

(LC Paper Nos. CB(2)1757/02-03(01), CB(2)1863/02-03(01), CB(2)1993/02-03(01) and CB(2)2450/02-03(01))

Report of the Research Team on the Compendium of Submissions on Article 23 of the Basic Law

2. At the invitation of the Chairman, Dr Boris CHOY presented the findings of the Research Team on the Compendium of Submissions on Article 23 of the Basic Law (the Research Team), as detailed in the report provided by the Research Team (the Report) (LC Paper No. CB(2)2450/02-03(01)).

3. On behalf of the Article 23 Concern Group (the Concern Group), Miss Margaret NG emphasized that while the Concern Group had provided funding for the project, the Research Team had full autonomy in conducting the study. Ms Audrey EU added that members of the Research Team had not received any monetary rewards.

4. Ms Emily LAU asked whether the findings of the Research Team reflected that the percentages of the public who opposed the enactment of legislation to implement Article 23 of the Basic Law (BL23) were more than those in support, and the

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Administration had distorted the true picture in arriving at a conclusion to the contrary.

5. Dr Jennifer CHAN responded that the Research Team found that if the signature forms were counted in the same way as standard letters, the percentages of those who opposed the proposals in the Consultation Document were more than those in support. Dr CHAN Kin-man added that the public consultation exercise had provided the Administration with an opportunity to understand the public's views in respect of the respective proposals in the Consultation Document. An analysis of the submissions, including the respective reasons for supporting and opposing the proposals in the Consultation Document, could assist the Administration in addressing the concerns of the public. However, the Administration had only identified the percentages of people in support of and opposed to the enactment of legislation to implement BL23. If this had been the objective, it could have been served by a public opinion survey.

6. Ms Emily LAU asked whether the Administration's analysis of submissions was flawed. Dr CHAN Kin-man responded that the analysis adopted by the Administration was unprofessional and unfair. He said that the Administration should have -

- (a) clearly defined the key points for collecting public opinion and provided options in the Consultation Document;
- (b) stated the method of analysis before consultation;
- (c) laid down the criteria for categorization; and
- (d) appointed an independent organization to carry out the analysis of submissions.

7. Mr LEE Cheuk-yan said that the findings of the study reflected that if the Administration had its own stance and public consultation was not genuine, the views of the public could be easily distorted. He considered that the Administration had distorted the true picture in concluding that there were more people in support of the enactment of legislation to implement BL23. He further said that the Administration had applied double standards in the treatment of standard letters and signature forms in the analysis of the percentages in support of and opposed to the enactment of legislation to implement BL23. He also asked whether submissions opposing the proposals in the Consultation Document were longer in length. Referring to the observation in Appendix 13 to the Report that there was an obvious homogeneity among many submissions from community groups, he asked how highly homogeneous submissions from a number of district-level sub-groups belonging to a community group should be treated.

8. Referring to Table 2K of Appendix 12 to the Report, Dr Sammy CHIU responded that submissions opposing the proposals in the Consultation Document were generally longer in length. Dr Jennifer CHAN said that it was more appropriate to

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study the views expressed in the submissions instead of just examining the number of submissions in support of or opposed to the proposals in the Consultation Document. Dr MA Ngok added that if the purpose of a study was to identify the percentages of the public supporting or opposing the proposals in a consultation document, a public opinion poll would be more appropriate.

9. Secretary for Security (S for S) thanked the Research Team for conducting a detailed analysis, which served as a useful reference for the Administration. She said that the Compendium was only one of the means of reflecting public opinion. She stressed that the Administration had not distorted the views of the public. She considered that all submissions should be treated equally, regardless of their length or the language used.

10. S for S added that it was inappropriate to provide options in respect of legislative proposals to implement BL23. As the Hong Kong Special Administrative Region had a constitutional obligation to enact legislation to implement BL23, it was more appropriate to set out the Administration's proposals instead of providing options in the Consultation Document.

11. Regarding the request in the joint submission from Ms Emily LAU and Mr LEE Cheuk-yan for further analysis of submissions, S for S said that the consultation process on the proposals in the Consultation Document had been completed. As reflected in the Bill under scrutiny by the relevant Bills Committee, many of the proposals in the Consultation Document had already been taken out or amended. For example, the proposed offences of misprision of treason or possession of seditious publications had been taken out. She considered it unnecessary to embark on a separate exercise, which would incur substantial resources, on issues raised in the Consultation Document.

12. Dr Jennifer CHAN responded that the Administration's analysis showed that there were more people in support of the enactment of legislation to implement BL23. However, the Research Team found that the percentage of the public who opposed the proposals in the Consultation Document was higher than the percentage supporting the enactment of legislation to implement BL23 by about 10%. She said that the Administration had not treated the signature forms, which comprised the majority, in the same way as standard letters in its analysis.

13. S for S said that the findings of the Administration were about the percentages of people in support of or opposed to the enactment of legislation to implement BL23. She said that the Administration had analyzed the views expressed on the respective proposals in the Consultation Document. It had held discussions with many organizations to understand their views and introduced amendments which had been reflected in the Bill.

14. Miss Margaret NG asked whether the Administration could provide Members with an analysis of the views expressed on the respective proposals in the Consultation

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Document. S for S responded that not many organizations had expressed views on the specific proposals in the Consultation Document. Those which had done so included the Law Society of Hong Kong (the Law Society), the Hong Kong Bar Association, and associations of librarians and publishers. In response to the submissions, representatives of the Department of Justice had held discussions with the legal profession, while representatives of the Security Bureau had held discussions with the other professions. She stressed that the Administration had addressed their concerns by clarification or introduction of amendments to the proposals in the Consultation Document.

15. Referring to Table 3 in Appendix 12 to the Report, Mr TAM Yiu-chung said that the Liberal Party, the Democratic Alliance for the Betterment of Hong Kong (DAB) and the Law Society had respectively proposed amendments to the proposals in the Consultation Document. The Law Society had also indicated support for the enactment of legislation to implement BL23. He asked why the Law Society was classified as opposing the proposals in the Consultation Document and the DAB was classified as uncertain of whether in support of the proposals in the Consultation Document. Referring to Appendix 13 to the Report, he queried why the Research Team considered that the submissions from district groups affiliated to the Hong Kong Federation of Trade Unions (FTU) were homogenous and therefore of little value, while taking the view that signature forms, which were also homogenous in content, should be treated in the same way as other submissions.

16. Dr Sammy CHIU said that the submissions from the Liberal Party, DAB and the Law Society were categorized by coders according to their respective contents. He added that as standard letters were used in many submissions from organizations, it cast doubts on the value of this type of public consultation, where groups and organizations were organized towards simple expression of political position rather than commenting on the actual laws being proposed in the Consultation Document. Dr MA Ngok said that the Research Team had not discriminated against any organization in the analysis of submissions.

17. Referring to the summary of percentages of the public who expressed concerns on the seven types of proposed offences, Ms Audrey EU asked whether concerns expressed on "ties with foreign political organizations" were mostly concerns about proscription of local organizations.

18. Dr MA Ngok responded that as far as he could recall, most of the concerns were about proscription of local organizations.

19. Ms Audrey EU asked when the CD-ROM on the updated Compendium would be available.

20. Principal Assistant Secretary for Security responded that the Administration had announced in February 2003 the updates to be made to the Compendium. He said that submissions in the Compendium had been made available on the BL23 web page

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of the Security Bureau. He stressed that the Administration would produce a CD-ROM on the updated Compendium which would contain further categorization of views on certain proposals to implement BL23. In this connection, he said that the Administration had issued a paper on the further categorization of views, on which Ms Emily LAU and Mr LEE Cheuk-yan had made a joint submission which was to be discussed at this meeting.

21. Miss Margaret NG asked what conclusion could be drawn from the finding that a majority of organizations supported the enactment of legislation to implement BL23 while a majority of individuals opposed the enactment of such legislation. She said that while concerns about specific proposals in the Consultation Document were found in 10% of the submissions, such submissions were outnumbered by a large number of submissions which did not contain concerns about specific proposals. She asked about the implications of such a phenomenon on future consultations. She expressed concern that the Research Team did not have resources to conduct a detailed analysis of the views expressed on specific proposals in the Consultation Document.

22. Dr MA Ngok said that the Administration should have more resources to conduct a detailed analysis of the views expressed on specific proposals in the Consultation Document.

23. Mr Albert HO said that as the Administration had not stated before the public consultation how submissions received would be treated, it tended to give one the impression that the method of analysis was only designed after taking into consideration the pattern of the views received. He said that the Administration had carried out detailed analysis of submissions and provided detailed responses on the Provision of Municipal Services (Reorganization) Bill. Thus, a detailed analysis of submissions was entirely viable. He asked whether academics could draw up some guidelines or code of practice on the analysis of submissions for future public consultations.

24. Mr Michael MAK said that S for S was both the tailor and the crook in the 2003 version of "the emperor's new clothes" in her use of statistics to deceive the public. At this point, S for S raised a point of order on whether Mr Michael MAK had used offensive language about her.

25. The Chairman said that it was inappropriate to use the word "crook" to describe S for S or any person attending the meeting. He asked Mr Michael MAK to withdraw his remarks.

26. Mr Michael MAK asked what the consequence would be, if he did not withdraw his remarks. The Chairman responded that in that case, Mr MAK could not attend the meeting. Mr MAK then left the meeting.

27. Mr Martin LEE pointed out that some members of the public who signed the signature forms did not wish to give their full names. He asked how such forms

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should be assessed. Dr Robert CHUNG said that standard letters and signature forms should not be treated differently. He considered that a large-scale public consultation should comprise a first stage consultation focused on the collection of substantive views, followed by a second stage consultation focussed on a quantitative analysis of views on the revised proposals drawn up having regard to the views received in the first stage. He added that the analysis strategy should be made public before the consultation exercise began. An independent organization should be appointed to collect public opinion and carry out analyses to enhance creditability.

28. Dr Boris CHOY said that the Administration's findings were not very reliable, as the analysis of submissions had been unprofessional. He considered that advice should have been sought from the Census and Statistics Department (C&SD) before the analysis of submissions commenced.

29. Dr CHAN Kin-man said that options should have been provided in the Consultation Document. He said that the Ombudsman had stated in his conclusion on a complaint case regarding the construction of the Kowloon Bay Primary Health Care Centre and Nursing Home for Elderly near Richland Gardens that options should have been provided in the public consultation process. He said that the analysis of submissions should be conducted in a fair and professional way. He considered that the Administration should possess more resources for the development of guidelines on the analysis of submissions for future public consultations.

30. S for S said that it had been stated in the Consultation Document that submissions should be sent to the Security Bureau by 24 December 2002 by post, by fax or by electronic mail. She said that signature forms had been categorized in the analysis of submissions. In the analysis process, advice was constantly sought from C&SD. She considered it inappropriate to provide options in the Consultation Document because it was not possible, for example, to provide options for the offence of treason. She stressed that the Administration's resources were not unlimited. Apart from printing expenses, the Administration had not incurred additional expenditure in the enactment of legislation to implement BL23.

31. Mr CHEUNG Man-kwong considered that the Administration had disregarded the views expressed on the proposals in the Consultation Document. He asked whether the Administration had sought the views of the public on whether the Second Reading debate on the National Security (Legislative Provisions) Bill should resume at the Council meeting on 9 July 2003. S for S responded that the Hong Kong Special Administrative Region had a constitutional obligation to enact legislation to implement BL23. The Administration had launched a massive consultation exercise and responded with many amendments to its original proposals. She could not see any reason for not resuming the Second Reading debate on the Bill at the Council meeting on 9 July 2003.

32. Mr IP Kwok-him said that the Research Team's classification of the submission from DAB as uncertain in respect of whether supporting the proposals in the

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Consultation Document reflected the difficulty in categorizing the submissions. He considered that the stance of a research team could affect the issues studied and hence the conclusions drawn. He asked whether the Research Team had, in addition to examining the homogeneity among submissions from community groups, also examined the homogeneity among signature forms, such as whether many signature forms were identical in handwriting.

33. Dr CHAN Kin-man responded that members of the Research Team had not exchanged views on any stance to be taken. He said that it was important for the study to be objective. He considered that identification of the respective percentages of the public supporting and opposing the Administration's proposals was not appropriate for such public consultation. A public opinion poll would have been more appropriate for such a purpose. He opined that a large scale public consultation should comprise a first stage public consultation focused on the collection of substantive views, followed by a second stage consultation focused on quantitative analysis of the views of the public. Dr MA Ngok added that the categorization of submissions was performed by coders, and not by the Research Team who developed the coding scheme and the coding sheet. He said that it was not possible to examine the homogeneity among signature forms, as not all signature forms were included in the Compendium.

34. Ms Miriam LAU asked whether it was in order to treat a submission from an association with tens of thousands of members in the same way as a submission from an individual in the calculation of percentages of submissions in support and opposed to a proposal. She also asked whether criteria could be laid down for the weight given to different forms of submissions in future analyses.

35. Dr MA Ngok responded that regardless of the criteria adopted, submissions of such nature were not suitable for quantitative analysis.

36. Mr WONG Yung-kan said that the New Territories Association of Societies had held a seminar attended by more than 1 000 persons, at which S for S gave a briefing on the Administration's proposals before the individual district organizations drew up their respective submissions. He said that all groups or persons who had expressed views had their own stance. It was unfair to single out the New Territories Association of Societies and FTU in the analysis of homogeneity of submissions.

37. Mr TAM Yiu-chung said that DAB should be categorized under organizations in support of the proposals in the Consultation Document. He added that standard letters differed from signature forms in that the name of the person or organization which submitted views was clearly stated in the letter.

38. Miss Margaret NG said that some associations, such as those representing the legal profession, had put much effort in preparing their submissions but subsequently found that their efforts were wasted. She asked whether there was any rational way in handling such submissions.

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39. Dr Clement SO said that in the analysis of homogeneity of submissions, the more well-known groups were quoted as a reference. He said that the categorization of submissions was carried out by coders. As regards the inter-coder reliability, measures were taken to ensure that each coder's coding could be compared to every other coders'. The percentage of consistent codings among coders ranged from 85% to 100%, with the average across variables being 92%.

Way forward in respect of the Administration's further categorization of views of organizations and individuals on specific proposals to implement Article 23 of the Basic Law

40. Members considered the Administration's paper entitled "Categorization of views of organizations and individuals on specific proposals to implement Article 23 of the Basic Law" setting out its proposed way forward for further categorization of submissions on the proposals to implement BL23 (LC Paper No. CB(2)1757/02-03(01)), and the joint submission from Ms Emily LAU and Mr LEE Cheuk-yan on the Administration's proposed scheme of further categorization of submissions (LC Paper No. CB(2)1863/02-03(01)). Ms Miriam LAU said that she had no objection to the Administration's proposal regarding further categorization of submissions. Mr IP Kwok-him considered that the Administration's proposal was acceptable.

41. Miss Margaret NG said that in view of the time constraint, she accepted confining further categorization to the three areas proposed by the Administration. She suggested that the proposed further categorization be conducted by the Research Team. Alternatively, the Administration should exchange views with the Research Team before conducting further categorization work.

42. Dr CHAN Kin-man responded that the Research Team might not have resources to conduct the proposed further categorization work. However, the Research Team would exchange views with the Administration on the coding scheme for further categorization of submissions after the meeting.

43. The Chairman thanked the Research Team for attending the meeting.

44. There being no other business, the meeting ended at 1:08 pm.