

立法會
Legislative Council

LC Paper No. CB(2)1290/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/BC/2/06

**Bills Committee on
Race Discrimination Bill**

**Minutes of meeting
held on Thursday, 10 January 2008, at 9:00 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon LI Fung-ying, BBS, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon Fernando CHEUNG Chiu-hung
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon TAM Heung-man
Hon Mrs Anson CHAN, GBM, JP
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon James TO Kun-sun
Hon Bernard CHAN, GBS, JP
Hon Daniel LAM Wai-keung, SBS, JP

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Public Officers attending : Mr Arthur HO
Deputy Secretary for Constitutional and Mainland Affairs (1)

Mr Victor NG
Principal Assistant Secretary for Constitutional and Mainland Affairs (5)

Mr Stanley NG
Assistant Secretary for Constitutional and Mainland Affairs (5)A

Miss Betty CHEUNG
Senior Government Counsel

Miss Shandy LIU
Senior Government Counsel

Attendance by invitation : Christian Action

Mr POON Wing-lok
Manager, Social Services Department

Alliance of Returning Chinese from Overseas Against Discrimination

Dr Priscilla LEUNG Mei-fun
Convenor

Mr Johnny C. M. SO
Member

Pakistan Islamic Welfare Union Inc. (HK) Ltd.

Mr K. M. MALIK
Chairman and Director

Society for Community Organization

Miss SZE Lai-shan
Community Organizer

Action

New Immigrants' Mutual Aid Association

Ms CHAN Tsui-kam
Spokeswoman

Dr KEEZHANGATTE James Joseph
Department of Social Work & Social Administration
The University of Hong Kong

Hong Kong Human Rights Commission

Miss Annie LIN
Community Organizer

Voices of the Rights of Asylum Seekers and Refugees

John
Spokesman

Hong Kong Human Rights Monitor

Mr LAW Yuk-kai
Director

Mr KWOK Hiu-chung
Education Officer

International Social Service Hong Kong Branch

Ms Adrielle PANARES
Director of Programme

H.K.S.K.H. Lady MacLehose Centre

Miss Nora WONG Fuk-nga
Unit-in-charge

Mr Arif ABBAS
Assistant Organizing Officer

Civic Party

Mr John SHANNON
Deputy Convenor, Equal Opportunity Group

Mr Bill LAY
Member of Executive Committee

Action

Hong Kong Christian Service

Ms Karrie CHAN
Supervisor

Mr Timothy SIN
Social Worker

Employers' Federation of Hong Kong

Mr Duncan ABATE
General Committee Member

Ms Jodi KOON
Senior Director - Operations

Hong Kong Christian Institute

Mr TOO Kin-wai
Acting Director

Ms NADIA
Volunteer

Colours in Peace

Mr M. TARIQ
Program Organizer

Mr HARUN RASHEED Mohamed Razwan
Program Mentor

Equal Opportunities Commission

Mr Herman POON Lik-hang
Chief Legal Counsel

Hong Kong Discrimination Policies Concern Network

Miss Eleanor CHEUNG
Member

Hong Kong Women Christian Council

Miss LOH Yuen-ching
Executive Secretary

Action

YMCA of Hong Kong, Cheung Sha Wan Centre

Miss LAW Lap-man
Senior Programme Officer

Mrs SINGH Tikajyoti
Programme Worker

Hong Kong General Chamber of Commerce

Mr David O'REAR
Chief Economist

The Association for the Advancement of Feminism

Ms Mabel AU Mei-po
Organizer

Dr Kelley LOPER
Research Assistant Professor
Faculty of Law, The University of Hong Kong

Hong Kong Unison

Ms Fermi WONG
Executive Director

Mr Keith WONG
Service Co-ordinator

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Ms Joanne MAK
Senior Council Secretary (2)2

Ms Anna CHEUNG
Legislative Assistant (2)2

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- I. Confirmation of minutes**
[LC Paper No. CB(2)738/07-08]

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The minutes of the meeting held on 21 November 2007 were confirmed.

II. Meeting with deputations and the Administration

LC Paper No. -- The Bill
CB(3)176/06-07

LC Paper No. LS14/07-08 -- Paper entitled "Discussion drafts of Committee Stage amendments for Members' consideration" prepared by the legal adviser to the Bills Committee

LC Paper No. -- Paper entitled "Scrutiny progress of the Bill" prepared by the Legislative Council Secretariat (revised version)
CB(2)2501/06-07(01)

LC Paper No. -- The Administration's response to the Legislative Council Secretariat's paper on "Scrutiny progress of the Bill"
CB(2)2753/06-07(01)

2. The Bills Committee received views from 24 organisations and individuals (index of proceedings attached at **Annex**).

3. Members noted that the Chairman of the United Nations Committee on the Elimination of Racial Discrimination (the UN Committee) had written to the Central People's Government raising queries about the Bill. The Administration was requested to provide information on the response to the UN Committee for members' consideration at the next meeting

Admin

(Post-meeting note: the Administration's reply letter dated 15 January 2008 to the Bills Committee was issued to members vide LC Paper No. CB(2)862/07-08. The relevant letter dated 24 August 2007 from the UN Committee to the Permanent Representative of the Permanent Mission of China to UN at Geneva downloaded from the Internet was also issued vide LC Paper No. CB(2)862/07-08 to members for reference.)

Clerk

4. The Clerk was requested to prepare a summary of views expressed by deputations on the various options of Committee Stage amendments (CSAs) set out in LC Paper No. LS14/07-08.

5. Ms LI Fung-ying expressed her strong dissatisfaction that, despite the fact that the Bills Committee had almost come to a consensus in respect of the

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four fundamental issues and put forward various options of CSAs for the Administration to consider, the Administration had failed to give a concrete answer as to whether it would consider taking on these CSAs. She suggested that the Bills Committee should not hold further meeting until a concrete response was made available.

6. Mr Ronny TONG expressed support for Ms LI's suggestion. Mr WONG Ting-kwong and Mr Howard YOUING, however, took the view that, if the Administration could provide a written response before the next meeting scheduled for 21 January 2008, the Bills Committee should meet as scheduled to continue with the clause-by-clause examination of the Bill. Ms Emily LAU suggested that various political parties should also indicate their stance as far as possible in respect of the various options of CSAs at the next meeting.

Admin

7. The Chairman concluded that the Administration should provide its written response before 21 January 2008 to facilitate members' consideration of the way forward at the next meeting. She also invited members belonging to political parties/groups to indicate their stance in respect of the various options of CSAs at that meeting.

(Post-meeting note: the Chairman's letter dated 11 January 2008 to the Secretary for Constitutional and Mainland Affairs (SCMA) and SCMA's reply letter dated 18 January 2008 were issued vide LC Paper No. CB(2)895/07-08(01) and (02) respectively.)

8. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 2
Legislative Council Secretariat
11 March 2008

**Proceedings of the meeting of Bills Committee on
Race Discrimination Bill
on Thursday, 10 January 2008, at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 001021	Chairman	- Confirmation of minutes - Opening remarks	
001022 - 001504	Christian Action	Presentation of views [LC Paper No. CB(2)783/07-08(01)]	
001505 - 002044	Alliance of Returning Chinese from Overseas Against Discrimination	Presentation of views [LC Paper No. CB(2)783/07-08(02)]	
002045 - 002523	Pakistan Islamic Welfare Union Inc. (HK) Ltd.	Presentation of views [LC Paper No. CB(2)783/07-08(03)]	
002524 - 003052	Society for Community Organization	Presentation of views Joint submission [LC Paper No. CB(2)798/07-08(01)]	
003053 - 003334	New Immigrants' Mutual Aid Association	Presentation of views Joint submission [LC Paper No. CB(2)798/07-08(01)] [LC Paper No. CB(2)798/07-08(02)]	
003335 - 003555	Dr KEEZHANGATTE James Joseph	Presentation of views [LC Paper No. CB(2)775/07-08(02)]	
003556 - 004046	Hong Kong Human Rights Commission	Presentation of views Joint submission [LC Paper No. CB(2)798/07-08(01)]	
004047 - 004419	Voices of the Rights of Asylum Seekers and Refugees	Presentation of views Joint submission [LC Paper No. CB(2)798/07-08(01)]	
004420 - 004952	Hong Kong Human Rights Monitor	Presentation of views	
004953 - 005502	International Social Service Hong Kong Branch	Presentation of views	
005503 - 010038	H.K.S.K.H Lady MacLehose Centre	Presentation of views [LC Paper No. CB(2)759/07-08(01)]	

Time marker	Speaker	Subject	Action required
010039 - 010549	Civic Party	Presentation of views [LC Paper CB(2)783/07-08(04) CB(2)798/07-08(03)]	Nos. and
010550 - 011044	Hong Kong Christian Service	Presentation of views [LC Paper CB(2)759/07-08(02)]	No.
011045 - 011458	Employers' Federation of Hong Kong	Presentation of views [LC Paper CB(2)783/07-08(05)]	No.
011459 - 012026	Hong Kong Christian Institute	Presentation of views [LC Paper CB(2)798/07-08(04)]	No.
012027 - 012514	Colours in Peace	Presentation of views [LC Paper CB(2)798/07-08(05)]	No.
012515 - 013429	Equal Opportunities Commission (EOC) Chairman	Presentation of views [LC Paper CB(2)759/07-08(03)]	No.
013430 - 013935	Hong Kong Discrimination Policies Concern Network	Presentation of views [LC Paper CB(2)798/07-08(06)]	No.
013936 - 014455	Hong Kong Women Christian Council	Presentation of views [LC Paper CB(2)798/07-08(07)]	No.
014456 - 014834	YMCA of Hong Kong, Cheung Sha Wan	Presentation of views [LC Paper CB(2)798/07-08(08)]	No.
014835 - 015059	Hong Kong General Chamber of Commerce	Presentation of views	
015100 - 015735	The Association for the Advancement of Feminism	Presentation of views [LC Paper CB(2)798/07-08(09) CB(2)901/07-08(01) and (02)]	Nos. and
015736 - 020312	Dr Kelley LOPER	Presentation of views	
020313 - 020843	Hong Kong Unison	Presentation of views [LC Paper CB(2)775/07-08(01)]	No.
020844 - 021815	<i>(Break)</i>		
021816 - 023207	Admin Chairman	Initial response of the Administration to deputations' views The Chairman's request for a	

Time marker	Speaker	Subject	Action required
		<p>concrete answer from the Administration as to whether it would consider introducing amendments to the Bill to address concerns raised by the Bills Committee or deputations in respect of the four fundamental issues.</p> <p>The Administration's response that it needed more time before giving a concrete answer, but would seek improvements in service areas, where appropriate, to address the concerns.</p>	
023208 - 024211	<p>Mr Ronny TONG Mr LAW Yuk-kai Ms Fermi WONG Mr David O'REAR Mr Duncan ABATE Mr Arif ABBAS Chairman</p>	<p>Mr Ronny TONG's expression of dissatisfaction that the Bill as presently drafted was not in conformity with the recommendations made by the relevant United Nations (UN) Committee and had failed to provide adequate protection against racial discrimination.</p> <p>Mr TONG's invitation of views from deputations as to whether enactment of the Bill would be supported if all the amendments relating to the four fundamental issues under discussion were eventually vetoed.</p> <p>Representatives of Hong Kong General Chamber of Commerce and Employers' Federation of Hong Kong expressed the view that the Bill in its present form should be passed as the community had been awaiting a law to provide protection against racial discrimination.</p> <p>The views of a representative of Hong Kong Unison that the Bill had long been awaited and it should be passed with necessary modifications so that it could address existing problems encountered by ethnic minorities especially in education and public medical service. They hoped that members belonging to different political parties could make concerted efforts in making necessary amendments to the Bill.</p> <p>Concerns raised by a representative of Hong Kong Human Rights Monitor that the relevant UN Committee had also expressed concern about the Bill.</p>	

Time marker	Speaker	Subject	Action required
024212 - 024845	Dr Fernando CHEUNG Admin Chairman	<p>Dr Fernando CHEUNG's enquiry of the Administration's response to the concern raised by the relevant UN Committee on the inadequacies of the Bill.</p> <p>That Administration's advice that it would check with the Central People's Government regarding the response to the UN Committee and would provide relevant information as far as possible.</p>	<p>Admin to provide relevant information on its response to the enquiry on the Bill made by relevant UN Committee (para. 3 of minutes)</p>
024846 - 025424	Ms Emily LAU Chairman Mr Keith WONG Admin	<p>Ms Emily LAU's suggestion that the Clerk should prepare a summary of views expressed by deputations on the various options of draft amendments prepared by the legal adviser to the Bills Committee.</p> <p>Her view that the Bill should be in full compliance with the relevant UN Covenant. Her suggestion that deputations should give an indication of their position, as early as possible, as to whether they wished to see the enactment of the Bill if all proposed amendments in respect of the four fundamental issues to improve the Bill could not be passed.</p> <p>The response of a representative of Hong Kong Unison that the question should be considered after the Administration had clearly indicated whether it would move amendments to the Bill and introduce policy changes to address the needs of ethnic minorities.</p>	<p>The Clerk to prepare a summary of views expressed by deputations on the various options of draft amendments prepared by the legal adviser to the Bills Committee (para. 4 of minutes)</p>
025425 - 025928	Mrs Anson CHAN Admin ALA6 Chairman	<p>Mrs Anson CHAN's enquiry about the Administration's view on the advice made by the legal adviser to the Bills Committee that the Bill as presently drafted might not cover the day-to-day performance of functions and duties of the Government.</p> <p>The Administration's reiteration of its position that the Hong Kong Bill of Rights (HKBOR) which incorporated into the laws of Hong Kong provisions of the International Covenant on Civil and Political Rights guaranteed both equality in substance and equality in enforcement. Legal proceedings could be instituted under HKBOR if</p>	

Time marker	Speaker	Subject	Action required
		<p>a law had been arbitrarily applied in the performance of functions and duties of the Government.</p> <p>ALA6's advice that cases not relating to the application of laws could not be dealt with under Article 22 of HKBOR.</p> <p>The Chairman's request that the Administration should study carefully relevant concerns set out in the submission of EOC.</p>	
025929 - 030511	Mr Howard YOUNG Dr Kelley LOPER Mr Duncan ABATE	<p>Mr Howard YOUNG's enquiry of the rationale for Dr Kelley LOPER proposing to delete Clause 58.</p> <p>Dr LOPER's explanation that use or non-use of language in itself could constitute a form of indirect discrimination. Given that Clause 4 had already provided the defence of justifiability for indirect discrimination, Clause 58 which provided for a very broad exemption should be deleted. Otherwise, the Administration would be sending out a very negative message that it did not want to change anything about unjustifiable discrimination in the area of language.</p> <p>Mr Duncan ABATE's view that the newly proposed Clause 5B for replacing Clause 58 under Option B set out in the paper [LC Paper No. LS14/07-08] would render discrimination on the ground of language a form of direct discrimination and hence the defence of justifiability not applicable.</p>	
030512 - 030859	Miss TAM Heung-man Ms Fermi WONG Miss SZE Lai-shan Mr LAW Yuk-kai Chairman	<p>Miss TAM Heung-man's question of whether deputations would support enactment of the Bill if the Administration did not accept any amendments suggested by the Bills Committee.</p> <p>Ms Fermi WONG's suggestion of requiring the Administration to give a concrete answer within a specified time frame. The responses of Miss SZE Lai-shan and Mr LAW Yuk-kai that, if the Administration adopted a very stiff position, they preferred not to see the enactment</p>	

Time marker	Speaker	Subject	Action required
		of the Bill as presently drafted. Mr LAW's view that, as the UN Committee expressly indicated that the Bill was not in conformity with the recommendations of the UN Committee, the Bill as presently drafted should not be enacted.	
030900 - 032404	Ms LI Fung-ying Admin Chairman Mr Ronny TONG Ms Emily LAU Miss CHOY So-yuk Mr Albert CHAN Mr WONG Ting-kwong Mr Howard YOUNG	Ms LI Fung-ying's suggestion that the Bill Committee should not hold further meeting until the Administration had provided a concrete answer as to whether it would consider taking on the amendments suggested by the Bills Committee. Discussion on the suggestion made by Ms LI.	Admin to provide a written response to the various options of amendments prepared by the legal adviser to the Bills Committee before the next meeting. (para. 7 of minutes)
032405 - 032710	Chairman Admin Ms Emily LAU Miss CHOY So-yuk	Date of next meeting.	

Council Business Division 2
Legislative Council Secretariat
 11 March 2008