

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1349/06-07

(These minutes have been  
seen by the Administration)

Ref : CB2/BC/2/06

**Bills Committee on  
Race Discrimination Bill**

**Minutes of meeting  
held on Monday, 5 February 2007, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)  
Hon Abraham SHEK Lai-him, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Dr Hon LUI Ming-wah, SBS, JP  
Hon CHEUNG Man-kwong  
Hon CHAN Yuen-han, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, SBS, JP  
Dr Hon YEUNG Sum  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon LI Fung-ying, BBS, JP  
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 Ronny TONG Ka-wah, SC  
Hon TAM Heung-man
- Members absent** : Hon James TO Kun-sun  
Hon Bernard CHAN, GBS, JP  
Hon Albert CHAN Wai-yip  
Hon Daniel LAM Wai-keung, SBS, JP  
Hon WONG Ting-kwong, BBS
- Public Officers attending** : Mr Donald TONG  
Deputy Secretary for Home Affairs(1)

Mr Victor NG  
Principal Assistant Secretary for Home Affairs(4)

Ms Roxana CHENG  
Senior Assistant Solicitor General

Ms Betty CHEUNG  
Senior Government Counsel

Miss Shandy LIU  
Senior Government Counsel

Ms Bernadette LINN  
Deputy Secretary for Education and Manpower (2)

Ms Karyn CHAN  
Principal Assistant Secretary  
(Manpower Planning & Training)  
Education and Manpower Bureau

Ms Pecvin YONG  
Assistant Secretary  
(Infrastructure & Research Support)2  
Education and Manpower Bureau

**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. Meeting with the Administration**

[LC Paper No. CB(2)1019/06-07(01) - the Administration's paper on "Education for the ethnic minorities"]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

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2. The Administration was requested to provide a paper on the following –

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- (a) explaining why a defence could be established under Clause 49 for implementing special support measures intending to bestow benefits on ethnic minorities, e.g. the special support measures to help non-Chinese speaking (NCS) students learn Chinese and inviting the University Grants Committee (UGC)-funded institutions to consider accepting alternative qualifications in Chinese in considering admissions of these students, having regard to the argument that provision of concessionary fares to persons with a disability might constitute a contravention of the Disability Discrimination Ordinance and the High Court's ruling in the case of *Equal Opportunities Commission v Director of Education* [2001] that the then Secondary School Places Allocation system was unlawfully sex-discriminatory;
- (b) whether the admission of non-local students subject to a 10% quota by UGC-funded institutions, who were predominantly Mainland students and did not need to meet the Chinese Language requirement, would be regarded as racial discrimination against local NCS students under the Bill;
- (c) whether the Administration would consider allocating a quota for admitting local NCS students to UGC-funded institutions on top of the approved student number of 14 500 for first-year-first-degree programmes, and if not, whether the Administration would give an undertaking as a matter of policy that it would implement administrative measures under Clause 49 of the Bill to support NCS students on a long-term basis which would have the effect of implementing affirmative action; and
- (d) the policy and legal considerations of the Administration for not imposing an obligation for affirmative action under the Bill.

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3. The Administration was also requested to provide the following information -

- (a) details of the Belgian Linguistics Case (1968) 1EHRR 252 heard by the European Court of Human Rights and relevant citation/judgment;
- (b) information on the academic attainment of ethnic minority students in public examinations and the number of these students who had been admitted to local universities;
- (c) the number of places available for Chinese Language teachers of the designated schools to participate in the relevant training programmes and the number of these teachers; and

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- (d) the number of ethnic minorities in Hong Kong who had specific needs in language, the supply of special support measures in quantitative terms from available channels to meet these needs (including the demand for and the resources allocated to the provision of remedial programmes for NCS students) and how their specific needs in receiving vocational training would be met.

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- 4. The legal adviser to the Bills Committee was requested to -
  - (a) identify the major differences between the Bill and the English Race Relations Act 1976 (RRA) on which the Bill was modelled and identify issues in the provisions of the Bill and relevant case law on RRA; and
  - (b) provide the House of Lords' ruling in a case relating to the issue of whether a school places allocation system in the United Kingdom was gender-biased and unlawful.

5. At the suggestion of the Chairman, members agreed that, subject to the availability of the Administration's written response to the above issues, the Bills Committee would further discuss the subject of affirmative action as well as the Administration's paper on "Compatibility with Articles 24 and 25 of the Basic Law" [LC Paper No. CB(2)1019/06-07(04)] at the next meeting to be held on Wednesday, 28 February 2007 at 8:30 am.

## **II. Any other business**

### Revised meeting schedule

6. At the request of Mr Howard YOUNG, the Bills Committee agreed to re-schedule its meeting to be held on 6 July 2007 from 10:45 am to 8:30 am.

*(Post-meeting note: a revised meeting schedule was issued to members vide LC Paper No. CB(2)1040/06-07 on 6 February 2007)*

7. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the meeting of Bills Committee on  
Race Discrimination Bill  
on Monday, 5 February 2007, at 8:30 am  
in Conference Room A of the Legislative Council Building**

| <b>Time marker</b> | <b>Speaker</b>                          | <b><u>Subject</u></b>   | <b>Action required</b>   |
|--------------------|---|---|--|
| 000000 - 000739    | Chairman<br>members                     | Re-scheduling of meeting on 6 July 2007   |  |
| 000740 - 001941    | Chairman<br>Admin<br>Dr YEUNG Sum       | The Chairman's request for supplementary information on the English Race Relations Act 1976.<br><br>Introduction of the Administration's paper by Deputy Secretary for Education and Manpower (2) [LC Paper No. CB(2)1019/06-07(01)]  | <b>ALA to provide an information paper</b><br>(para. 4 (a) of minutes) |
| 001942 - 002806    | Chairman<br>Ms LI Fung-ying<br>Admin    | Ms LI Fung-ying's concern about whether merely conducting courses in English on a need basis by vocational training institutions could cater for the needs of those non-Chinese speaking (NCS) adults who knew very little English.<br><br>The Administration's explanation of existing arrangements of vocational training institutions to cater for the specific needs of NCS participants, having regard to the requirements of the jobs in question.<br><br>The Administration's undertaking that it would continue to encourage these institutions to arrange translations into the languages of NCS participants where necessary and practicable. |  |
| 002807 - 003502    | Chairman<br>Miss TAM Heung-man<br>Admin | Miss TAM Heung-man's request for information on school distribution of NCS students.<br><br>The Administration's response that, in the 2006-2007 school year and not yet counting the students in Direct Subsidy Scheme schools, there were about 2 900-plus primary students and 400-plus secondary students who belonged to the ethnic minority groups. Amongst them, about 2 400 primary students and about 300 secondary students were studying in the 15 designated schools.   |  |

| Time marker     | Speaker                                 | Subject  | Action required   |
|-----------------|---|--|---|
| 003503 - 004110 | Chairman<br>Dr YEUNG Sum<br>Admin       | <p>Dr YEUNG Sum's enquiries about progress of the discussion with the University Grants Committee (UGC)-funded institutions on the feasibility of accepting alternative qualifications in Chinese and whether it was compulsory for NCS students who were studying French to change to study Chinese Language after the introduction of GCSE (Chinese) examination in 2007.</p> <p>The Administration's report on the progress of its discussion with UGC-funded institutions and its clarifications on the voluntary participation of NCS students in GCSE (Chinese) examination.</p> |   |
| 004111 - 004955 | Chairman<br>Dr Fernando CHEUNG<br>Admin | <p>Dr Fernando CHEUNG's concern about whether the special measures intended for bestowing benefits on ethnic minorities would be regarded racial discrimination under the Bill having regard to the argument that provision of concessionary fares to persons with a disability might constitute a contravention of the Disability Discrimination Ordinance.</p> <p>The Administration's explanation of the purpose of clause 49 of the Bill<br/>The Chairman's request for the Administration's written response to the above concern and explain the legal effect of clause 49.</p>  | <b>Admin to give a written response</b><br>(para. 2(a) of minutes)  |
| 004956 - 005804 | Chairman<br>Mr Jasper TSANG<br>Admin    | <p>Mr Jasper TSANG's concern about whether ethnic minority students might be considered to have been deprived of their right to mother tongue teaching under the existing educational system and whether this would constitute racial discrimination, and the language problem faced by those students who were not admitted to English schools.</p>   | <b>Admin to provide details of the Belgian Linguistics Case (1968) 1EHRR 252</b><br>(para. 3(a) of minutes) |

| Time marker     | Speaker                                  | Subject   | Action required   |
|-----------------|--|---|---|
|                 |  | <p>The Administration's advice that in Hong Kong the use of English/Chinese as medium of instruction would also facilitate the learning of the official languages for integration purpose. The Administration's advice that exception provisions (clauses 20(2) and 26(2)) to the effect that there was no mandatory requirement for modification of the medium of instruction in education and vocational training had been provided for under the Bill, and explanation of the existing administrative measures taken to address the language needs of NCS students.</p> <p>The Administration's briefing on the Belgian Linguistics Case (1968) 1EHRR 252.</p>           |   |
| 005805 - 010635 | Chairman<br>Mr Jeffrey LAM<br>Admin      | <p>Mr Jeffrey LAM's enquiry about the number of ethnic minorities in Hong Kong who neither knew Chinese nor English and had specific needs in language, and his suggestion of tightening up coordination with community groups with a view to identifying suitable teachers who knew the languages of the ethnic groups to provide preparatory courses on English for NCS participants before they attended the vocational training courses which would be conducted in English.</p> <p>The Administration's information on the availability of such preparatory courses/other support measures being offered by vocational training institutions and community groups.</p> | <b>Admin to provide information</b><br>(para. 3(d) of minutes)                                      |
| 010636 - 011423 | Chairman<br>Mr CHEUNG Man-kwong<br>Admin | <p>Mr CHEUNG Man-kwong's concern about the lack of avenue provided to NCS students to attain qualifications in Chinese for admission to local universities and whether the special educational measures would be able to achieve the same effect as that of taking affirmative action. His view that the application of the Chinese Language requirement for admission of NCS students to the UGC-funded institutions was tantamount to indirect racial discrimination.</p>   | <b>Admin to consider Mr CHEUNG's suggestion or giving an undertaking</b><br>(para. 2(c) of minutes) |

| Time marker     | Speaker                           | Subject  | Action required  |
|-----------------|-----------------------------------|--|--|
|                 |                                   | <p>The Administration's reiteration that the provision of a quota for admission of NCS students to the UGC-funded institutions would not be lawful under the Bill on legal grounds.</p> <p>Mr CHEUNG's request for an undertaking that the Administration would resort to various administrative measures to support NCS students so that even without taking affirmative action, NCS students would be helped to gain admission to universities.</p>  |  |
| 011424 - 012032 | Chairman<br>Ms Emily LAU<br>Admin | <p>Ms Emily LAU's expression of dissatisfaction with the Administration's failure to address the long-existed language problem of ethnic minority students in education and her request for further information on the Chinese Learning Support Centre and the training programmes for Chinese Language teachers of designated schools.</p> <p>The Administration's response that the Chinese Learning Support Centre was targeted for NCS secondary school students in need, and that sufficient training places would be provided for Chinese Language teachers of the designated schools.</p> <p>Ms LAU's request for further details on the academic attainment of ethnic minority students in public examinations, the number of them admitted to universities, number of places available for Chinese Language teachers of the designated schools to participate in the relevant training programmes and the total number of these teachers in Hong Kong, and whether the resources allocated to the provision of remedial programmes for NCS students would be sufficient to meet actual demands.</p> | <b>Admin to provide information</b><br>(para. 3(b), (c) & (d)) |



| Time marker     | Speaker                                    | Subject   | Action required  |
|-----------------|--|---|--|
| 012033 - 012828 | Chairman<br>Mr Ronny TONG<br>Admin<br>ALA6 | <p>Mr Ronny TONG's concern about whether affirmative action would be lawful under the Bill, having regard to the High Court's ruling made in June 2001 that the then Secondary School Places Allocation system was gender-discriminatory.</p> <p>The legal adviser's advice that it was not lawful to impose an obligation for affirmative action under the Bill and there was a House of Lords' ruling in a case about a school places allocation system in the United Kingdom.</p>  | <p><b>Admin to provide details of the case of <i>Equal Opportunities Commission v Director of Education [2001]</i> in explaining affirmative action</b><br/>(para. 2(a)&amp;(d) of minutes)</p> <p><b>ALA to provide relevant House of Lords' ruling</b><br/>(para. 4(b) of minutes)</p> |
| 012829 - 013448 | Chairman<br>Miss CHAN Yuen-han<br>Admin    | <p>Miss CHAN Yuen-han's concern that it might not be adequate for vocational training institutions to conduct some of their training courses in English on a need basis, as some NCS participants might know very little English.</p> <p>The Administration's explanation of existing measures as set out in paragraph 4 of its paper.</p>  |  |
| 013449 - 014043 | Chairman<br>Mr Martin LEE<br>Admin         | <p>Mr Martin LEE's suggestion that ethnic minority students who had a high standard of spoken Chinese would suffice for admission to the UGC-funded institutions, even though they failed in relevant Chinese Language written examinations.</p> <p>The Administration's reiteration that the UGC-funded institutions were still in the course of considering the issue of university admissions in respect of NCS students. The Administration's view that introducing alternative qualifications in Chinese such as those under GCSE would already facilitate flexibility in applying the Chinese Language requirement.</p> |  |

| Time marker     | Speaker                                 | Subject   | Action required  |
|-----------------|---|---|--|
| 014044 - 014156 | Chairman<br>Mr Howard YOUNG             | Mr Howard YOUNG's enquiry about information on any English-speaking countries which admitted students who had a poor standard of written English.   |  |
| 014157 - 014504 | Chairman<br>Miss TAM Heung-man<br>Admin | <p>Miss TAM Heung-man's concern about the lack of support available to schools which were not the designated schools but had admitted NCS students, and whether introducing alternative qualifications in Chinese would be an adequate measure as some bright NCS students might not be able to pass the GCSE examination either.</p> <p>The Administration's response that some NCS students not studying in the 15 designated schools were learning French instead of Chinese. The Administration's response that the GCSE (Chinese) examination was less demanding than some other non-local examinations on Chinese Language and that it should not be difficult for schools to prepare NCS students for the examination.</p>   |  |
| 014505 - 014810 | Chairman<br>Dr YEUNG Sum                | Dr YEUNG Sum's concern about unfairness suffered by those NCS students from families of the lower social class under the existing university admission system.  |  |
| 014811 - 015140 | Chairman<br>Dr Fernando CHEUNG<br>Admin | <p>Dr Fernando CHEUNG's query about whether training would be provided to prepare Chinese Language teachers to teach Chinese courses on GCSE (Chinese) examination and whether the following would be regarded as racial discrimination under the Bill -</p> <ul style="list-style-type: none"> <li>- the existing policy of admission of non-local students subject to a 10% quota, who were predominantly Mainland students; and</li> <li>- failure of mainstream schools to provide translation services during interview sessions between teachers and NCS parents who belonged to ethnic minorities.</li> </ul> <p>The Administration's initial view that, subject to further legal advice, the existing policy of admission of non-local students subject to a 10% quota did not constitute racial discrimination under the Bill.</p> | <b>Admin to confirm whether the policy constituted racial discrimination</b> (para. 2(b) of minutes) |

| <b>Time marker</b> | <b>Speaker</b>                          | <b>Subject</b>   | <b>Action required</b>  |
|--------------------|---|--|---|
|                    |   | The Administration's response that some schools were already providing translation services where necessary and arrangements would be made to brief Chinese Language teachers of the GCSE (Chinese) examination during the teacher training.   |   |
| 015141 - 015446    | Chairman<br>Miss CHAN Yuen-han<br>Admin | Miss CHAN Yuen-han's concern that training courses provided by the Construction Industry Training Authority were largely conducted in Chinese and some NCS participants might have language problem.<br><br>The Administration's explanation of existing measures as set out in paragraph 5 of its paper.  |   |
| 015447 - 015799    | Chairman<br>Mr CHEUNG Man-kwong         | Mr CHEUNG Man-kwong's concern about whether the existing policy of admission of non-local students subject to a 10% quota, who were predominantly Mainland students (94% of student intake under this scheme) and exempting them from the Chinese Language requirement for admission to UGC-funded institutions would be regarded racial discrimination against local NCS students under the Bill. | <b>Admin to confirm whether the policy constituted racial discrimination</b><br>(para. 2(b) of minutes) |
| 015800 - 015940    | Chairman<br>Admin                       | Date of next meeting   |   |