

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2838/07-08  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/2/06

**Bills Committee on  
Race Discrimination Bill**

**Minutes of meeting  
held on Friday, 25 April 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** :
- Hon Margaret NG (Chairman)
  - Hon Abraham SHEK Lai-him, SBS, JP (Deputy Chairman)
  - Hon Martin LEE Chu-ming, SC, JP
  - Hon CHEUNG Man-kwong
  - Hon CHAN Yuen-han, SBS, JP
  - Hon Bernard CHAN, GBS, JP
  - Hon Jasper TSANG Yok-sing, GBS, JP
  - Hon Howard YOUNG, SBS, 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 LEE Cheuk-yan
  - Dr Hon LUI Ming-wah, SBS, JP
  - Hon James TO Kun-sun
  - Dr Hon YEUNG Sum, JP
  - Hon Daniel LAM Wai-keung, SBS, JP

Action

- Public Officers attending** : Constitutional and Mainland Affairs Bureau
- 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
- Department of Justice
- Miss Betty CHEUNG  
Senior Government Counsel
- Miss Shandy LIU  
Senior Government Counsel
- 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(3)176/06-07 -- The Bill

LC Paper No. -- Summary of views received from  
CB(2)1030/07-08(01) deputations/individuals on specific  
clauses of the Bill (as at 6 February  
2008) prepared by the Legislative  
Council Secretariat

Action

Clause-by-clause examination of the Bill

The Bills Committee completed scrutiny of Clauses 43 to 50 and considered issues relating to Clause 94 of the Bill (index of proceedings attached at **Annex**).

Admin

2. The Administration was requested to -

Clauses 45 & 46

- (a) elaborate on the meaning of "reasonably and in good faith" in Clause 45(2)(c), and consider revising Clause 45(3)(a) to read "any form of speaking, writing, printing or other recorded material that has been communicated to the public" in order to clarify the meaning;
- (b) explain the meaning of "activity in public" in Clause 45(3) and include "communication through the Internet" in Clause 45(3)(a), and clarify whether a private act not communicated to the public would also be covered;
- (c) consider revising the expression "which includes" in Clause 46(1) to make the scope of the provision more definite;
- (d) advise whether a person would be caught by Clause 45 or 46 if he spoke in private something which might incite hatred against persons of a particular race and his words had been disseminated through the Internet without that person's consent;
- (e) elaborate on the purposes of Clauses 45 and 46 from the policy point of view and the specific acts to be targeted;
- (f) provide comparable legislation in Australia and case law and review the compatibility of Clauses 45 and 46 with the right to freedom of speech protected under the Basic Law;
- (g) explain whether conspiracy offence would be covered by Clause 46 by application of principles of the common law;
- (h) explain whether the yardstick for determining whether an act constituted incitement was an objective one;

Clause 48

- (i) explain whether the reference to "knowingly" in Clause 48(3)(a) would tantamount to making "ignorance of the law" a defence;

Action

- (j) provide justifications for Clause 48(4) which rendered the making of a false statement an offence; and

Clauses 50 and 94

- (k) provide information on the background and rationale for the proposed amendment under Clause 94 to the Chinese Permanent Cemeteries Ordinance (Cap. 1112).

Date of next meeting

3. Members noted that the next meeting would be held on Tuesday, 6 May 2008, at 4:30 pm. and representatives of the Equal Opportunities Commission (EOC) would be invited to attend the meeting scheduled for Wednesday, 14 May 2008, at 8:30 am to discuss the proposed equality plan. At the suggestion of Ms Emily LAU, members agreed that EOC should be invited to suggest amendment to the Bill, if possible, for the purpose of imposing a statutory requirement on the service providers in the relevant fields to draw up an equality plan.

Clerk

4. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2  
Legislative Council Secretariat  
30 September 2008

**Proceedings of the meeting of Bills Committee on  
Race Discrimination Bill  
on Friday, 25 April 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 001907	Chairman Mr Howard YOUNG ALA6 Ms Emily LAU	Meeting with representatives of Equal Opportunities Commission (EOC) on the proposed equality plan.	<b>EOC to suggest amendment to the Bill for the purpose of imposing a statutory requirement on the service providers in the relevant fields to draw up an equality plan</b> (para. 3 of minutes)
001908 - 002008	Chairman Admin	<b>Clause-by-clause examination of the Bill</b>  <u>Clause 43</u>	
002009 - 002038	Chairman Admin	<u>Clause 44</u>	
002039 - 002803	Chairman Admin Mr Howard YOUNG Mr Ronny TONG Miss CHOY So-yuk Mrs Anson CHAN Mr Alan LEONG Ms Emily LAU ALA6	<u>Clauses 45 and 46</u>  Concern about the meaning of "reasonably and in good faith" in Clause 45(2)(c), and the meaning of "activity in public" in Clause 45(3), e.g. whether it covered a private act <u>not</u> communicated to the public.  Suggestion that communication on the Internet should be included in Clause 45(3)(a).  Concern about the use of the expression "which includes" in Clause 46(1).  Whether a person would be caught by Clause 45 or 46 if he spoke in private something which might incite hatred against persons of a particular race and his words had been disseminated through the Internet without that person's consent.	<b>Admin to address various concerns raised by members with regard to Clauses 45 and 46</b> (para. 2(a)-(h) of minutes)
002804 - 013103	Chairman Admin	<u>Clause 47</u>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
013104 - 013241	Chairman Admin Mr Ronny TONG ALA6	<u>Clause 48</u>  Concern about whether the reference to "knowingly" in Clause 48(3)(a) would tantamount to making "ignorance of the law" a defence.  Request for justifications for Clause 48(4) which rendered the making of a false statement an offence.	<b>Admin to address concerns raised by members with regard to Clause 48</b> (para. 2(i)-(j) of minutes)
013242 - 014816	Chairman Admin	<u>Clause 49</u>	
014817 - 015126	Admin ALA6 Chairman Mr Ronny TONG Ms Emily LAU Dr Fernando CHEUNG Miss CHAN Yuen-han Mrs Anson CHAN	<u>Clauses 50 and 94</u>  Concern about the implications of the proposed amendment under Clause 94 to the Chinese Permanent Cemeteries Ordinance (Cap 1112) and request for information on the background and rationale for the proposed amendment.	<b>Admin to provide information on the background and rationale for the proposed amendment under Clause 94 to Cap. 1112</b> (para. 2(k) of minutes)
015127 - 020545	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
 30 September 2008