

立法會
Legislative Council

LC Paper No. CB(2)2751/06-07

(These minutes have been
seen by the Administration)

Ref : CB2/BC/2/06

**Bills Committee on
Race Discrimination Bill**

**Minutes of meeting
held on Tuesday, 26 June 2007, at 10:45 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 Martin LEE Chu-ming, SC, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, 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 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 Ronny TONG Ka-wah, SC
Hon TAM Heung-man

Members absent : Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Bernard CHAN, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
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
- 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

Action

I. Meeting with the Administration

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

2. Members went through the paper prepared by the Legislative Council Secretariat entitled "Scrutiny progress of the Bill" [LC Paper No. CB(2)2231/06-07(01)]. The Chairman invited members to take a vote on members' views encapsulated in paragraphs 2, 4, 7, 12, 21, 25 and 29 of the paper respectively. Hon CHOY So-yuk indicated that she was unable to vote because she needed to consult her political party on the matter. Miss CHAN Yuen-han indicated that she would abstain from voting in respect of members' view encapsulated in paragraph 21.

Action

3. At the Chairman's suggestion, members agreed that the word "Some" in the beginning of paragraph 21 of the paper be changed to "Many". Subject to this amendment, members endorsed the paper.

4. Referring to the end of paragraph 22 of the paper, the Administration clarified that resources implications were not a key factor in the Administration's consideration of not including new arrivals from the Mainland within the scope of the Bill. Members in general considered that amendment along this line, if proposed by the Administration, was acceptable.

Admin

5. The Administration informed the meeting that it would propose amendments, within one week, to certain paragraphs under the heading "*The Administration's response*" in the paper to fine tune the wording with a view to setting out more clearly the public position of the Administration as expressed at the Bills Committee meetings on certain issues. The Chairman invited the Administration to make comments on the paper as it saw fit in a separate document which could be appended to the paper.

(Post-meeting note: The Chairman agreed to the Administration's proposed amendment to add the clause "although the latter is not a key factor in the Administration's consideration" at the end of paragraph 22 of the paper, the revised version of which was issued vide [LC Paper CB(2)2501/06-07] on 16 July 2007.)

6. The Administration briefed members on its paper entitled "The difference between the 'reasonable practicability' test and the 'unjustifiable hardship' defence" [LC Paper No. CB(2)2231/06-07(03)]. Members raised no queries.

7. Members noted that Professor Carole Petersen had provided a paper entitled "Hong Kong's Race Discrimination Bill: A Critique and Comparison with the Sex Discrimination and Disability Discrimination Ordinances" [LC Paper No. CB(2)2232/06-07(01)] to the Bills Committee, a copy of which had been provided to the Administration for response.

Admin

II. Any other business

Administration's representative at the Bills Committee

8. The Administration informed the Bills Committee that following the transfer of the policy responsibility for human rights from the Home Affairs Bureau to the new Constitutional and Mainland Affairs Bureau with effect from 1 July 2007, the Deputy Secretary for Constitutional and Mainland Affairs (2) would lead the Administration's team in attending future meetings, and other members of the team would remain unchanged.

Action

Way forward

Admin

9. The Administration was requested to provide written responses to all the outstanding issues raised by members at previous meetings particularly the fundamental issues identified in the paper entitled "Scrutiny progress of the Bill" [LC Paper No. CB(2)2231/06-07(01)] in September 2007.

10. Members agreed that the next meeting originally scheduled for 6 July 2007 would be cancelled and, subject to the availability of members, the Bills Committee would plan to schedule its next meeting in September 2007.

11. There being no other business, the meeting ended at 12:05 pm.

Council Business Division 2
Legislative Council Secretariat
4 October 2007

**Proceedings of the meeting of Bills Committee on
Race Discrimination Bill
on Tuesday, 26 June 2007, at 10:45 am
in Conference Room A of the Legislative Council Building**

| Time marker | Speaker | Subject | Action required |
|-----------------|---|---|-----------------|
| 000000 - 000700 | Chairman | The Administration's representative at future meetings of the Bills Committee | |
| 000701 - 001027 | Ms Emily LAU Dr YEUNG Sum Dr Fernando CHEUNG Mr Howard YOUNG Chairman | Members' views encapsulated in paragraph 2 of LC Paper No. CB(2)2231/06-07(01) and voting on the paragraph. The majority of members voted in favour. Mr YOUNG's clarification that, while he agreed that it was the majority view of the Bills Committee that the exemptions provided for in the Bill would have the adverse effect of legitimising discriminatory acts on the ground of race, the Liberal Party only disagreed with some of these exemptions and some exemptions were supported by the business sector. | |
| 001028 - 001059 | Chairman | Members' views encapsulated in paragraph 4 of LC Paper No. CB(2)2231/06-07(01) and voting on the paragraph. The majority of members voted in favour. | |
| 001100 - 001143 | Chairman | Members' views encapsulated in paragraph 7 of LC Paper No. CB(2)2231/06-07(01) and voting on the paragraph. The majority of members voted in favour. | |
| 001144 - 001504 | Admin Chairman Mr Martin LEE | The Administration's indication of its intention to propose amendments to certain paragraphs under the heading " <i>The Administration's response</i> " in the paper for the sake of clarifying its position already stated at the Bills Committee meetings. | |

| Time marker | Speaker | Subject | Action required |
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| | | <p>The Chairman's views that, if the Administration wished to provide supplementary information on what the Administration had said previously, it should be set out in a separate document to be appended to the paper. However, any amendments which did not reflect what the Administration had said before would not be accepted.</p> | |
| 001505 - 001639 | Chairman | <p>Members' views encapsulated in paragraph 12 of LC Paper No. CB(2)2231/06-07(01) and voting on the paragraph. The majority of members voted in favour.</p> | |
| 001640 - 001752 | Chairman Admin | <p>The Administration's clarification that the resource implications arising from inclusion of new arrivals within the scope of the Bill was not a key factor in the Administration's consideration.</p> | |
| 001753 - 002704 | Mr Martin LEE Chairman Dr YEUNG Sum Mr Howard YOUNG Ms Emily LAU | <p>The suggestion of Mr Martin LEE and Dr YEUNG Sum that the word "Some" in the beginning of paragraph 21 should be changed to "A majority of" given that it was the view expressed by the majority of members at previous meetings to support the inclusion of new arrivals from the Mainland within the scope of the Bill.</p> <p>Mr Howard YOUNG's indication that he and Mr Jeffrey LAM both preferred paragraph 21 as presently worded.</p> <p>Ms Emily LAU's view that paragraph 21 as presently worded reflected more accurately members' views.</p> | |
| 002705 - 002744 | Chairman Mr Abraham SHEK | <p>Mr Abraham SHEK's indication of support for extending the scope of the Bill to cover new arrivals from the Mainland.</p> <p>Voting on Mr Martin LEE's suggestion of changing "Some" in the beginning of paragraph 21 to "A majority of". 7 members voted in favour; 2 members voted against.</p> | |

| Time marker | Speaker | Subject | Action required |
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| 002745 - 002909 | Mr Howard YOUNG Chairman Ms Emily LAU Ms LI Fung-ying | Mr Howard YOUNG's view that whether or not new arrivals from the Mainland should be covered within the scope of the Bill was a controversial issue. Expression of views by the Chairman, Ms Emily LAU and Ms LI Fung-ying that paragraph 21 as presently worded had reflected accurately members' view. | |
| 002910 - 003029 | Chairman | Suggestion to consult all members, by circulation of papers, on the members' views encapsulated in paragraph 21 of the paper. | |
| 003030 - 003117 | Chairman | Members' views encapsulated in paragraph 25 of LC Paper No. CB(2)2231/06-07(01) and voting on the paragraph. The majority of members voted in favour. | |
| 003118 - 003221 | Chairman Admin Dr YEUNG Sum | Members' views encapsulated in paragraph 29 of LC Paper No. CB(2)2231/06-07(01) and voting on the paragraph. The majority of members voted in favour. Dr YEUNG Sum's request that the Administration should take note of the position of the Bills Committee as reflected in paragraph 29 that passage of the Bill as currently drafted might hinder the protection of the rights of the ethnic minorities. | |
| 003222 - 003810 | Chairman Mr Howard YOUNG Dr YEUNG Sum | Options to be considered set out in paragraph 30(a) to (d) of the paper Mr Howard YOUNG's view that he would have no strong view on paragraph 30(d) if it meant that only the Government and public bodies would be required to provide necessary translation service to cater for specific language needs of ethnic minorities in their provision of services or goods to the public. The Chairman and Dr YEUNG Sum agreed that the Bills Committee was concerned about the provision of necessary translation service by the Government, and not the private sector, in the provision of services. | |

| Time marker | Speaker | Subject | Action required |
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| 003811 - 004006 | Chairman Mr Jeffrey LAM Mr Martin LEE | Mr Jeffrey LAM's indication that he held the same views as Mr Howard YOUNG's on paragraph 21. Mr Martin LEE's suggestion of consulting every member on members' views encapsulated in the paper, not just in paragraph 21, in order to ascertain their position. | |
| 004007 - 004118 | Miss CHAN Yuen-han Chairman | Miss CHAN Yuen-han's enquiry of whether it was the majority view of the Bills Committee that a policy decision should be made to ensure that vocational training institutions would have to meet the training needs of ethnic minorities including those who knew very little English. The Chairman's response in the affirmative. | |
| 004119 - 004739 | Ms LI Fung-ying Mr Howard YOUNG Mr Jeffrey LAM Chairman | The need to consult members in writing on members' views encapsulated in the paper. Ms LI Fung-ying's view that, while she supported extending the scope of the Bill to cover the new arrivals from the Mainland, the reference to "Some members" in paragraph 21 was preferred given the controversial nature of the issue. The Chairman's view that, except for paragraph 21, there was no need to consult members all over again given the attendance of a large number of members at the meeting and an overwhelming majority of members had expressed support for the views stated in the paper in each round of voting. | |
| 004740 - 004959 | Chairman Miss CHOY So-yuk | Voting on extending the scope of the Bill to cover the new arrivals from the Mainland. 9 members voted in favour; 2 members voted against; 2 abstained from voting. Miss CHOY So-yuk's indication that she needed to first discuss with the Democratic Alliance for the Betterment and Progress of Hong Kong regarding her position. | |

| Time marker | Speaker | Subject | Action required |
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| 005000 - 005110 | Chairman Mr Howard YOUNG | On paragraph 21, the Chairman's suggestion that the word "Some" in the beginning of paragraph 21 of the paper be changed to "Many". Mr Howard YOUNG's agreement to the suggestion. | |
| 005111 - 005234 | Miss CHAN Yuen-han | Miss CHAN Yuen-han's indication that she would abstain from voting on paragraph 21. Her explanation that, while she felt strongly that discrimination against new arrivals from the Mainland did exist in Hong Kong, there were different views over how the problem should be tackled. | |
| 005235 - 005539 | Chairman Dr YEUNG Sum Admin | The Chairman's conclusion that, subject to the proposed amendment to the beginning of paragraph 21, the paper would be taken as passed by the Bills Committee and would be sent to the Administration for its overall response. Dr YEUNG Sum's agreement to the Chairman's conclusion. | Clerk to revise paragraph 21 and Admin to provide response to the paper (para. 5 of minutes) |
| 005540 - 005837 | Miss CHOY So-yuk Chairman Admin | The Administration's representative at future meetings of the Bills Committee | |
| 005838 - 010131 | Miss CHAN Yuen-han Admin | Miss CHAN Yuen-han's concern that the transfer of the policy responsibility in respect of this Bill to the Constitutional and Mainland Affairs Bureau (CMAB) would affect continuity of the scrutiny work. The Administration's explanation about the future composition of the Administration's team. | |
| 010132 - 010337 | Mr Howard YOUNG Chairman | Mr Howard YOUNG's view after the transfer of policy area, the Home Affairs Bureau (HAB) should make sustained efforts in providing support to new arrivals from the Mainland to facilitate their integration into the community. | |

| Time marker | Speaker | Subject | Action required |
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| 010338 - 010819 | Miss CHOY So-yuk Admin Dr YEUNG Sum Chairman | Miss CHOY So-yuk's enquiry of the delineation of responsibilities between HAB and CMAB over the policy area of providing support to new arrivals from the Mainland. The Administration's response that the Permanent Secretary for Home Affairs would continue to be responsible for coordinating support measures taken by various bureaux/departments to facilitate the integration of new arrivals from the Mainland into the community. | |
| 010820 - 011255 | Chairman Admin Miss CHAN Yuen-han | The Chairman's view that members not supporting the inclusion of the new arrivals from the Mainland within the scope of the Bill also considered that existing measures to address the discrimination suffered by these new arrivals were inadequate and should be enhanced. | |
| 011256 - 011344 | Chairman Admin | Briefing on the Administration's paper on "The difference between the 'reasonable practicability' test and the 'unjustifiable hardship' defence" [LC Paper No. CB(2)2231/06-07(03)] | |
| 011345 - 012030 | Chairman Miss CHAN Yuen-han Admin Mr Howard YOUNG | Submission made by Professor Carole Petersen to the Bills Committee. Cancellation of meeting scheduled for 6 July 2007. | Admin to provide response to the submission of Professor Carole Petersen (para. 7 of minutes) |