

Submission To
The Special Meeting of The Legco Education Panel
University Education Concern Group
28 February 2007

We are deeply concerned about recent incidents of alleged interference in academic freedom and institutional autonomy regarding the Hong Kong Institute of Education (HKIED) on the part of the Education and Manpower Bureau (EMB). Furthermore, we have serious reservations about the appointment of a Commission of Inquiry (Commission) by the Chief Executive (CE), Mr Donald Tsang, announced on 15 February (see Appendix 1), and we have earlier called on the Legislative Council (Legco) to set up a parallel independent inquiry into alleged EMB infringement on academic freedom (see Appendix 2).

For this Special Meeting today, we have the following opinion, supplementary information and demands to offer up for our Honourable Members to consider.

Opinion We think that the ambit of the Commission is far too narrow to allow the full picture regarding possible EMB infringement on academic freedom to emerge. It focuses only on three allegations made by Prof Bernard Luk Hung Kay in an essay he posted on 4 February 2007, and its investigation will only be based on its findings regarding these three allegations. As far as we know, Prof Luk's allegations might well be the tip of an iceberg, and the Legco should take this opportunity to conduct a much broader and thorough investigation into whether and how the EMB has possibly encroached on academic freedom.

Supplementary Information We submit the following three items of information to support our urge for a broader and thorough investigation:

1. **EMB domination via the governing council** - When the Council of the HKIED resolved not to renew the contract of its President, Prof Paul Morris, in late January, society was alerted to the fact that the danger of government interference into academic freedom actually lurks in the composition of the governing council. In our press conference held on 4 February, we pointed out that, for the HKIED, the majority of Council members (up to 17) were directly appointed by the Chancellor, i.e., the Chief Executive or were representatives of the EMB, while the minority (up to nine) were internal members. In addition, according to its statutes, all except two of the

internal members did not have voting rights in the appointment of the President (see Appendix 3). The HKIEd is not alone in being afflicted by such an unhealthy composition and arrangement of powers which readily allow government intervention. Among the eight local tertiary institutions, three of them have over half of their Council members being directly appointed by the CE: HKIEd (60.71%), PolyU (68.97%) and Lingnan (54.55%). (See “The weight of officially-appointed council members”, *Hong Kong Economic Journal*, 12 Feb 07). This structural risk for government intervention needs to be fully reviewed and remedied.

2. **Structural mechanisms of control over academics** - We held a press conference on 2 April last year, alerting the public to the danger of EMB encroachment on academic freedom through the teaching and research projects that they had put out for bidding. Invitations for tenders often contain restrictive conditions which show little respect for freedom of thought and ownership among academics. There are, for example, clauses stating that EMB officials could ask to adjust course contents or replace instructors if they find them unsatisfactory (see “Basic Manager Training Programme for School Management Committees”, 2005; and “Using IT in Learning and Teaching of Mathematics in Secondary School”, 06-07). Apart from these, it is specified in quite a few research and training programmes that the EMB would have sole copyright and intellectual property rights over the materials and data generated and used in the process (see “Review Of Support Services Offered to Schools”, 05; and “Professional Development Programme 05/06: Learning and Teaching Strategies for Liberal Studies ([New Secondary School])”). One must read such restrictions against the background of the availability of increasingly large funds for the EMB to be used for centralized bidding (see Arthur Li’s remarks in the Education Panel meeting for the deliberation of funding cuts to universities, 11 Jan 2005), **AND** the slight but continuous depletion of recurrent revenue assigned to individual institutions over the past few years (see Audrey Eu’s article on “How Can Universities Enjoy Autonomy?” in *Ming Pao*, 30 Jan 07). It is eminently clear that these restrictions can open up ways for EMB to interfere into academic freedom.
3. **Direct Encroachment on academic freedom** – Incidents of EMB encroachment on academic freedom are not unheard of outside the HKIEd. We offer three such incidents as follows”

- 3.1 Dr Fung Wai Wah (Division of Social Studies, City University of Hong Kong) participated in an interim evaluative research into Key Learning Areas which was contracted out by the EMB. This research started in May 2003, and should have ended by the end of the same year. However, completion was delayed until November of the following year due to repeated rejection by the EMB of the study's analysis, conclusions and recommendations. At one point, EMB officials even presented the research team with a written "Summary of Chapters", ostensibly "for reference". In the end, the team gave in to these persistent "requests" for modification of their report, failing which they would not have been able to receive the last installment of payment for research expenses.
- 3.2 Dr Anita Poon Yuk Kang wrote critiques of education policies in April and December of 2004. Immediately after her essays were published in the newspapers, she received calls from EMB officials, inviting her to come to their offices so as to clarify the relevant policies to her. She accepted, but there was no follow-up from officials, so the meetings did not take place. In 2005, a primary school, after having secured success in a pilot implementation of an English teaching method designed by Dr Poon, invited her to join them in a Quality Education Fund application as adviser. The application fell through.
- 3.3 A professor from a local university was responsible for organizing an international conference related to education, and the former Education Department (ED) was among the sponsoring bodies. After the speakers had been chosen, an ED official objected to one of them who, inter alia, had made known his critique of a recent education policy. The professor organizing the conference insisted on inviting the speaker in question. At the completion of the conference, as the preparation for publishing the proceedings started, the EMB official threatened to withdraw funding for publication, should the presentation of that particular speaker be included. In the end, the proceedings were published without ED funding.

In the process of preparing this submission of ours, we have encountered other similar cases of EMB interference with the writing and presentation of reports.

However, due to the vulnerable position of individual academics (e.g., those have not obtained substantiation or tenure), or because they are worried about exclusion by the EMB in future considerations of funding, some have dared not to come forward.

This points all the more clearly to the importance of a fair and open Legco inquiry into possible EMB encroachment on academic freedom and institutional autonomy, and on much broader terms of reference.

Our Demands With reference to the above, we believe that what has been uncovered regarding the HKIED is only the tip of the iceberg. In order to reveal the whole picture and to allay public fears, a Legco inquiry which is broader and more thorough than that of the Commission is absolutely necessary. We strongly demand that the Legco regard seriously its duties of monitoring the government, upholding academic freedom and safeguarding freedom of speech, and that it IMMEDIATELY

1. set up a parallel, independent and open inquiry.
2. broaden the ambit of inquiry into possible EMB infringement on institutional autonomy and academic freedom to include all academics and tertiary institutions, while providing adequate protection for those individuals who are brave enough to come forward to give evidence.

**Serious Doubts About The Commission of Inquiry Into Alleged EMB
Intervention into Academic Freedom:
Justice Has To Be Seen To Be Done**

University Education Concern Group
16 February 2007

We have serious doubts about the Chief Executive, Mr Donald Tsang's, appointment of a Commission of Inquiry into the alleged interference by Education and Manpower Bureau (EMB) officials in the academic freedom and institutional autonomy of the HK Institute of Education (HKIEd):

- (1) Weak command of public confidence – The public hearing of Robert Chung's allegations of government interference back in 2000 sets a very good example of what a fair and trustworthy investigation should be like. In that case, Mr Justice Power, a retired Court of Appeal judge, presided over the hearing. By contrast, this present Commission is headed by Mr Justice Woo, an incumbent judge who still works under the Judiciary. Even more worrying is the fact that the Head of Judiciary happens to be Mr Andrew Li, the cousin (brother one degree removed, in Chinese terms) of Arthur Li, Secretary of EMB, who is at the very centre of the serious allegations involved. It is not sufficient that justice is done, but that justice is seen to be done. The arrangement for this present inquiry inspires little public confidence, to say the least.
- (2) Restricted terms of reference – The Commission is only investigating specific incidences of alleged EMB intervention in the academic freedom and institutional autonomy of the HKIEd. We think that there should be a broader inquiry into possible similar incidences of EMB interference that involve other tertiary institutions. Our Concern Group held a press conference last year, raising our concern about EMB infringement upon academic freedom through its teaching and research project bidding mechanism. Such structural mechanisms whereby EMB is able to pressurize academics to support their policies through their teaching and research activities should also be subject to careful probing.
- (3) Emasculation of the Legislature – The Chief Executive (CE), by appointing a Commission of Inquiry at this juncture is, in fact, preempting an inquiry the

Legislative Council might have initiated after its scheduled Education Panel meeting on Feb 28. The separation of powers among the judiciary, the executive and the legislative branches constitutes the very basis of our institutional stability. Now that the executive branch is taking up the policing job of one of its own bureaus, it is side-stepping the legislature. Indeed, we already know that government officials, including Arthur Li, will not attend the Legco Education Panel meeting on Feb 28. Mr Tsang Yok Sing, head of the Education Panel, is now inclined to put the Legco meeting on hold. The present allegations of interference in academic freedom and institutional autonomy are directed at a very high level of government. It is therefore imperative that the Legco should take up the inquiry, and not the government itself. Although the Legco is not fully mandated by universal suffrage, it is still relatively broad-based and therefore serves to provide a useful set of checks and balances against the powers of the executive branch. The CE's act of emasculating the Legislature will have a deleterious effect on society in the long run, as the danger of misdirection and abuse of power in the government will be left unchecked.

- (4) Electioneering tactic – We have reason to suspect that the appointment of a commission of inquiry by the CE at this particular time is, in fact, an electioneering tactic. On the one hand, the CE appears to be acting decisively and fairly, while on the other hand, this step of his serves to contain the “damage” that an open and much broader inquiry might bring to his government, were it a Legco inquiry. We have heard earlier that the CE might have linked the allegations against the EMB to a “conspiracy” regarding the coming CE election. In order to prove that he is truly non-partisan in this affair, the CE should refrain from appointing a Commission of Inquiry now, but leave the job to the Legco.

In view of the doubts about the Commission of Inquiry mentioned above, we urge that the Legco take up its role as government watchdog seriously, and to hold a parallel, independent inquiry into the matter – a fair and open inquiry that will command full public confidence.

**An Open Letter to the Legislative Council
Calling for a Thorough and Extensive Independent Inquiry into
All Alleged EMB Infringement on Academic Freedom
Among Tertiary Institutions in Hong Kong**

University Education Concern Group

25 February 2007

We regret to learn that colleagues from tertiary institutions other than the Hong Kong Institute of Education (HKIED) who have volunteered to state their cases of EMB intervention in their scholarship in the coming Education Panel meeting, to be held on 28th February, have been denied participation. We are especially distressed by the reason given for this, namely, that the Panel wishes to concentrate only on HKIED cases.

We would like to draw your attention to both our earlier statements of 11th and 16th February sent to the Panel and the press calling for the setting up of a parallel, independent and open Inquiry by the Legislative Council (Legco) to investigate into the full magnitude of damage caused by EMB infringement on academic freedom. We pointed out that the terms of reference of the Commission of Inquiry set up by the Chief Executive were too narrow. As far as we can ascertain, the allegations made by Prof Luk Hung-Kay may only be the tip of an iceberg. Our Concern Group, for example, called the public's attention last April to the great likelihood of EMB interfering into academic freedom through restrictive conditions imposed on academics who secured EMB contracts for teaching and research projects. Such likelihood should have been sufficient to warrant a more thorough and extensive investigation into possible incidences of EMB interference afflicting colleagues in institutions other than the HKIED. The fact that some of these colleagues are willing to state their cases make it clear that such a broader investigation is absolutely necessary. Their action, which they have taken despite great pressure, should be welcomed and their courage applauded. We are, therefore, shocked and find it absolutely unacceptable that their offers have been turned down by the Panel.

The separation of powers among the judiciary, the executive and the legislative branches constitutes the very basis of our institutional stability, and we expect the Legco to take its role of being a public watchdog seriously. Failing that, the danger of misdirection and abuse of power in the government will be left unchecked and the

credibility of the Legco itself seriously eroded.

We therefore earnestly call upon the Chairperson and members of the Education Panel, and indeed, the whole of the Legislative Council, to take your mandate seriously and set up a parallel, independent and open Inquiry into ALL alleged cases of EMB infringement on academic freedom among all tertiary institutions IMMEDIATELY. Our Concern Group would continue to stand together with our fellow academics and strive to uphold our rights both in word and action.

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The HK Institute of Education Affair: Our Concern for Teacher Education and Academic Independence

University Education Concern Group

4 Feb 2007

The controversies and leadership crisis that have emerged from the decision by the Hong Kong Institute of Education (HKIEd) Council not to reappoint its incumbent President, Prof Paul Morris, reveals at least two serious problems in the higher education sector of Hong Kong. The first concerns government indifference towards teacher education; the second hinges on academic independence,.

(1) Government indifference towards teacher education

The HKIEd was awarded self-accreditation status in early 2004 after a rigorous review procedure, thus affirming its standards as a university. In the 1990s, several local tertiary institutions, including HK Polytechnic, HK City Polytechnic, Baptist College and Lingnan College, were re-titled as universities within one or two years of having obtained self-accreditation status. The unfortunate fact that this has still not happened to the HKIEd is highly revealing of government indifference towards teacher education. The HKIEd came into being in 1994 as an independent tertiary institution dedicated to professional teacher education, being formed out of five teaching training colleges previously under government auspices. However, by repeatedly setting up obstacles on the road to re-titling the Institute as a university, the government shows its reluctance to acknowledge the HKIEd as an independent university free from government patronage.

Apart from the issue of re-titling, the government's lukewarm attitude towards teacher education can also be seen in past incidents concerning direct intervention into and sidelining of the HKIEd and its lecturers. On 2 April of last year, our Group held a press conference to alert the public to the alarming fact that, having granted contracts to successful bidders for teacher training workshops, "EMB officials have more than once complained to institutions concerned about views expressed in instructional materials or by lecturers for being critical of its policies. Some of them have even requested that the lecturer or instructional materials be changed." (Press Statement) In December 2006, the Deputy Chair of the Department of Education Administration & Policy of the HKIEd made public what had happened after he published critiques of EMB's school-based management policy in February. EMB

officials sent emails of complaint to the unit responsible to express dissatisfaction, and, when the programme started again in the fall, the lecturer was relieved of this teaching task, which he had been taking up for five years.

An even clearer, and more debilitating, indication of government's callous attitude towards teacher education is the drastic cut of more than 30% of the HKIED's funding in early 2005. The damage this has wrought on the Institute's academic developments, its teaching and research activities, and its general morale is unfathomable. HKIED is the only academic institution dedicated to teacher education and related research. The fact that the government would not think twice about this serious blow is highly indicative of its total disregard for society's need for enhancing teacher education and research.

EMB officials have long publicized its goal for upgrading secondary, primary and even kindergarten teachers to graduate level. A university degree, however, is not a mere label. It means that whoever holds it has gone through a kind of education which has some kind of distinctive characteristic. The old-style government-controlled teaching training was designed to turn out competent but well-socialized and conforming teachers. In contrast, university education, in its best form, nurtures a critical and independent mind, as well as a quest for humanist values such as social justice, equality and liberty. The reluctance on the part of education officials to acknowledge the HKIED as a university clearly follows from their anachronistic preference for government-run teaching training.

(2) Government trampling on academic independence

It is clear that the present crisis of the HKIED is closely related to the wish on the part of Prof Arthur Li, Secretary of Education and Manpower, to attain a merger between the HKIED and the Chinese University of Hong Kong (CUHK). As early as March 2002, when Prof Li was still Vice-Chancellor of CUHK, he publicly announced his wish for this merger. This wish having fallen through, Prof Li made a high profile urge for a merger between CUHK and the Hong Kong University of Science and Technology (HKUST) soon after he took up his present post as SEM. The phrases he used then, namely, "the power lies in the government, the final decision rests with me", "polite words first and force later", "will think of ways to deal with those who oppose this", etc., made a big impression on the public mind and are still well remembered. There is no doubt that Prof Li is dedicated to the idea of building "mega universities", and he does not care to hide his domineering attitudes towards universities. This kind of official authoritarianism, if allowed to grow

unchecked, will damage university capacity to nurture independent thinking. Ultimately, the quality of teaching and research work will suffer, because the quality of such work hinges squarely on the degree of independence of thought.

In Hong Kong, the danger of government interference into academic freedom lurks in the composition of the governing councils of universities. The Council of the HKIEd is an apt illustration: while the minority (up to nine) are internal members, the majority (up to 17) are directly appointed by the Chancellor, i.e., the Chief Executive or are representatives of the EMB. In addition, according to its statutes, all except two of the internal members do not have voting rights in the appointment of the President. Such a composition and arrangement of powers is dangerous, as it readily allows government intervention into academic freedom.

With regard to these serious problems plaguing university education, and, in particular, teacher education, we urge the government to take up action on the following:

- (a) Review the composition of the HKIEd Council and its power arrangements to make space for independent members such as elected Legislative Councillors, alumni and representatives from education bodies. The aim is to enhance democracy in university governance, and to reduce the danger of government intervention.
- (b) Acknowledge the urgent need and societal wish to enhance the quality of civic education and nurturance of talents, which cannot be achieved without government shedding its lukewarm attitude towards teacher education. In concrete terms, government should accept the re-titling of the HKIEd as an education university, thus allowing it to be properly recognized as an academic institution dedicated to teacher education and related research. In addition, the government should pledge to ensure adequate resources for this university, as well as a culture conducive to independence and freedom of thought, so as to attract the best among our youths who are committed to a teaching career. In the long run, it is hoped that the quality of education and society will be enhanced.