

立法會
Legislative Council

LC Paper No. CB(2)2612/06-07
(These minutes have been seen by
the Administration)

Ref : CB2/PS/1/06

Panel on Home Affairs

Subcommittee on Human Rights Protection Mechanisms

Minutes of meeting
held on Friday, 22 June 2007, at 5:00 pm
in Conference Room B of the Legislative Council Building

- Members present** : Hon Albert HO Chun-yan (Chairman)
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Dr Hon Fernando CHEUNG Chiu-hung
- Member absent** : Hon James TO Kun-sun
- Public Officers attending** : Mr Donald TONG
Deputy Secretary for Home Affairs (1)
Home Affairs Bureau
- Mr Victor NG
Principal Assistant Secretary for Home Affairs (4)
Home Affairs Bureau
- Attendance by invitation** : Hong Kong Human Rights Monitor
Mr LAW Yuk-kai
Director

Mr C Raj KUMAR

Associate Professor
The School of Law, City University of Hong Kong
(and also Honorary Consultant, National Human Rights
Commission, New Delhi, India)

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

Staff in attendance : Ms Alice LEUNG
Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)2

Action

I. Confirmation of minutes

[LC Paper No.CB(2)2195/06-07]

The minutes of the meeting held on 28 April 2007 were confirmed.

II. Review of the existing human rights mechanisms in Hong Kong

[LC Paper Nos. CB(2) 2198/06-07(01), CB(2)1957/02-03(03) and
CB(2)2198/06-07(02) & (03)]

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. Members received views from Hong Kong Human Rights Monitor (HKHRM) and Mr C Raj KUMAR on the following issues -
 - (a) deficiencies in the existing human rights protection mechanisms in Hong Kong;
 - (b) feasible options to enhance the existing mechanisms; and
 - (c) review of the options for the way forward.

(Post-meeting note: Copies of papers, as provided by HKHRM and Mr C Raj KUMAR and tabled at the meeting, were circulated to members vide LC Paper CB(2)2269/06-07 issued on 25 June 2007.)

Action

Clerk 4. On Mr C Raj KUMAR's suggestion, members agreed that, to facilitate further discussion on the deficiencies of the existing human rights mechanism in Hong Kong, the Subcommittee should request the Research and Library Services Division of the Legislative Council (LegCo) Secretariat to conduct a research study on the experience of selected jurisdictions in the Asia Pacific region where the human rights commissions (HRCs) had been successful in protecting and promoting human rights. Members further agreed that South Korea, India, Australia and Northern Ireland be selected for the study.

Clerk 5. Members further agreed that the Subcommittee should hold a short meeting within the current session to endorse the research outline to be prepared by the Research and Library Services Division. At the invitation of the Chairman, Mr LAW Yuk-kai and Mr C Raj KUMAR agreed to provide for members' consideration their comment on the research outline when available.

Clerk 6. Members also agreed that the Clerk should prepare a table setting out the concerns and recommendations in the recent Concluding Observations/Comments issued by the respective United Nations Treaty Monitoring Bodies in respect of the Hong Kong Special Administrative Region under the six human rights treaties entailing a reporting requirement.

III. Any other business

Clerk Date of the next meeting

7. Members agreed that the Subcommittee would hold its next meeting with the Administration and the deputations in the new legislative session when the research report should be made available.

8. There being no other business, the meeting ended at 6:27 pm.

Council Business Division 2
Legislative Council Secretariat
8 August 2007

**Proceedings of the meeting of Subcommittee on
Human Rights Protection Mechanisms
on Friday, 22 June 2007, at 5:00 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000312	Chairman	Confirmation of minutes of the meeting held on 28 April 2007	
000313 - 002322	Mr LAW Yuk-kai of HKHRM	Presentation of views as set out in LC Paper No. CB(2)2198/06-07(02).	
002323 - 002717	Mr C Raj KUMAR	Presentation of views as set out in LC Paper No. CB(2)2198/06-07(03).	
002718 - 003232	Admin	<p>Briefing of the Administration's paper on its response to the issues raised at the meeting of 28 April 2007 [LC Paper No. CB(2)2198/06-07(01)]</p> <p>The Administration also made the following points -</p> <ul style="list-style-type: none"> - the Equal Opportunity Commission (EOC) and the Office of the Privacy Commissioner for Personal Data (PCO) had reviewed/was reviewing their respective legislation, and the Ombudsman was reviewing the jurisdiction of the Office of the Ombudsman; - the Constitutional and Mainland Affairs Bureau which would take over human rights issues with effect from 1 July 2007 would continue to consider carefully the recommendations made/to be made after completion of these reviews; - the recommendations of EOC and PCO if implemented might address some of the issues raised by HKHRM; and - it might be worthwhile for the Subcommittee to wait and see the outcome of the Ombudsman's review of whether it should have a new role to play in human rights issues. 	

Time marker	Speaker	Subject(s)	Action required
003233 - 004035	Dr Fernando CHEUNG The Chairman	<p>Dr Fernando CHEUNG's concern about the way forward for the Subcommittee, given the fundamental differences between the Administration and members on the need of setting up a human right commission (HRC) in Hong Kong as well as the wide scope of policy areas of the issues as raised in the HKHRM's submission.</p> <p>Support of the suggestion of Mr C Raj KUMAR that the Subcommittee should conduct a research study on the experience of countries in the Asia Pacific region where HRCs had been successful in protecting and promoting human rights.</p> <p>Discussion about possible options to take forward the discussion.</p>	See para. 4 of the minutes
004036 - 004507	Ms Emily LAU Chairman	<p>Ms Emily LAU's expression of agreement to the conduct a research study by the Research and Library Services Division and reiteration of her criticism on the revolving door for civil servants e.g. the appointment mechanism for the Commissioner of the Independent Commission Against Corruption (ICAC).</p> <p>Ms LAU's question about the Administration's decision on the mode of investigation taken to investigate on the issues that were of wide public concern, in the light of the recent case of setting up of the Commission on Inquiry on Allegations relating to the Hong Kong Institute of Education (HKIEd).</p> <p>The Chairman's view that the Administration's decision on the mode of investigation would certainly have implication on the outcome of the investigations.</p>	See para. 4 of the minutes
004508 - 004947	Mr C Raj KUMAR	<p>Mr C Raj KUMAR's views as follows -</p> <ul style="list-style-type: none"> - the setting up of the Commission on Inquiry by the Administration to investigate allegations on the interference of academic freedom was a piecemeal approach and costly; and - unnecessary time, money and resources spent for litigation could be better utilised if there was an independent HRC in Hong Kong. 	

Time marker	Speaker	Subject(s)	Action required
004948 - 005935	Mr LAW Yuk-kai Chairman	<p>Mr LAW Yuk-kai's views as follows -</p> <ul style="list-style-type: none"> - as regards the issue of academic freedom, the option of establishing an Ombudsman to redress grievances and address issues of interference of academic freedom and maladministration in the education sector could be an option for consideration; and - given that different modes of investigation had different merits, it was desirable to maintain different modes of investigation. <p>The Chairman's question as to how the existing statutory bodies and institutions such as EOC and ICAC could work with the HRC if it was to be established in Hong Kong and how to ensure that the various aspects of human rights could be properly catered for in a cost-effective manner.</p> <p>The Chairman's view that the remit and responsibilities of the HRC and the existing statutory bodies should be carefully construed taking into account the current provisions of the respective legislation of the existing statutory bodies, the possible jurisdictional overlap and the resources implications.</p> <p>Mr LAW Yuk-kai's reiteration of HKHRM's view that a dual-commission model was a more suitable and feasible institutional framework for Hong Kong and HRC responsible for general human rights could work along with the statutory bodies and institutions in the existing human rights protection mechanism.</p>	
005936 - 011441	Mr C Raj KUMAR Chairman Dr Fernando CHEUNG Ms Emily LAU	<p>Discussion on the ideal type of HRC to be established in Hong Kong -</p> <ul style="list-style-type: none"> - Mr C Raj KUMAR considered that a HRC to be established in Hong Kong should be an independent institution with broad mandate and have jurisdiction to investigate allegations of human rights violations and that HRC and the EOC could complement each other's unique roles; 	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - on the selection and appointment of executive members of HRC, Mr C Raj KUMAR pointed out that, in some overseas countries, there was a selection committee comprising members of different parties including opposition party; and - the selection of membership should be made on the basis of the candidates' qualifications and contributions to the protection of human rights. <p>Discussion on how to take forward the deliberations on the subject of establishing a HRC in Hong Kong including the following suggestion and request -</p> <ul style="list-style-type: none"> - the need to examine whether Hong Kong had fulfilled its obligations under the six human rights international treaties; and - the Clerk to compile a table setting out the concerns and recommendations of the respective United Nations Treaty Monitoring Bodies in respect of Hong Kong in fulfilling the obligations under each of the six human rights treaties. 	<p>Clerk to compile the summary (see para. 6 of the minutes)</p>
011442 - 012430	<p>Clerk Chairman Ms Emily LAU Mr C Raj KUMAR Mr LAW Yuk-kai Dr Fernando CHEUNG</p>	<p>Discussion on the countries/places to be selected for the research study and any further paper to be prepared for the meeting to be held in the new legislative session.</p> <p>Discussion about arrangements for future meetings and members' agreement to hold a meeting within the current session to endorse the research outline prepared by the Research and Library Services Division.</p>	<p>Clerk to liaise with the Research and Library Services Division (see para. 4 of the minutes)</p> <p>Clerk to arrange the meeting (see para. 5 of the minutes)</p>