

立法會
Legislative Council

Ref : CB2/BC/3/08

LC Paper No. CB(2)2038/08-09
(These minutes have been seen
by the Administration)

Bills Committee on Voting by Imprisoned Persons Bill

**Minutes of the first meeting
held on Thursday, 21 May 2009, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon WONG Yung-kan, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon CHIM Pui-chung
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
- Members absent** : Dr Hon Priscilla LEUNG Mei-fun
- Public Officers attending** : Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs
- Mr Gary POON Wai-wing
Principal Assistant Secretary (Constitutional and Mainland Affairs)
- Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary (Constitutional and Mainland Affairs)
- Mr Gilbert MO Sik-keung
Deputy Law Draftsman (Bilingual Drafting and Administration)

Miss Mandy NG Wing-man
Government Counsel

Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer

Mr Eddie NG Sik-hay
Deputy Chief Electoral Officer (Operations)

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Action

I. Election of Chairman

Mr IP Kwok-him was elected Chairman of the Bills Committee.

II. Meeting with the Administration

[LC Paper Nos. CB(2)1622/08-09(02) - (05), CB(3)548/08-09, LS66/08-09 and CMAB C1/30/25]

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

3. The Administration was requested to provide a paper to explain the administrative and security arrangements for prisoners and remanded unconvicted persons to be registered as an elector and to vote on the polling day (e.g. guidelines for law enforcement agencies to detain persons before or on the polling day, arrangements to protect secrecy of votes, arrangements for remanded unconvicted persons to vote in functional constituency elections and subsector elections, arrangements for prisoners detained in medical wards to vote, access to election-related materials by prisoners, etc.).

(Post-meeting note: The Administration's response was issued vide LC Paper No. CB(2)1696/08-09 on 29 May 2009.)

Admin

4. Mr James TO requested the Administration to keep in view of the implications brought about by the Bill on the restoration of prisoners' rights to participate in socio-economic activities such as to be a member of an owners' corporation, a director of a limited company, etc. which were removed at present.

III. Any other business

Public consultation

5. The Bills Committee agreed to invite public views on the Bill and that the following actions should be taken -

- (a) a general invitation for submissions would be posted on the website of the Legislative Council;
- (b) the two legal professional bodies would be invited to give views on the legal aspect of the Bill; and
- (c) a letter would be sent to the Correctional Services Department requesting them to notify the imprisoned persons of the opportunity to give views on the Bill to the Bills Committee.

Schedule of meetings

6. The Bills Committee also agreed to schedule three meetings with the following arrangements -

- (a) meeting on 1 June 2009 from 2:30 pm to 4:30 pm - to discuss the Administration's response to the issues raised by members at this meeting and to conduct clause-by-clause examination of the Bill;
- (b) meeting on 8 June 2009 from 10:45 am to 12:45 pm - to receive views from individuals and organizations; and
- (c) meeting on 11 June 2009 from 8:30 am to 10:30 am - to continue deliberations of the Bill.

7. The meeting ended at 5:27 pm.

**Proceedings of the first meeting of the
Bills Committee on Voting by Imprisoned Persons Bill
on Thursday, 21 May 2009, at 4:30 pm
in Conference Room A of the Legislative Council Building**

| Time Marker | Speaker(s) | Subject(s) | Action required |
|--------------------|---|--|------------------------|
| 000145 - 000242 | Mr WONG Yung-kan Mr CHEUNG Hok-ming Ms Emily LAU Mr IP Kwok-him | Election of Chairman | |
| 000243 - 000439 | Chairman | Opening remarks | |
| 000440 - 000620 | Administration | Briefing by the Administration on the Voting by Imprisoned Persons Bill (the Bill) | |
| 000621 - 001812 | Chairman Ms Emily LAU Ms Audrey EU Mr James TO Mr LEUNG Yiu-chung | Invitation of public views, including those from prisoners Schedule of meetings and date to meet with deputations | Clerk |
| 001813 - 002219 | Mr James TO Administration Chairman Ms Emily LAU | The Administration was requested to provide a paper to explain the administrative and security arrangements for prisoners and remanded unconvicted persons to be registered as an elector and to vote on the polling day. | Admin |
| 002200 - 003141 | Mr James TO Administration Chairman | Mr James TO's questions of whether the removal of all the across-the-board restrictions on prisoners' right to be registered as electors and to vote as proposed in the Bill could be challenged as unconstitutional and whether the Administration had accepted the High Court judgment. Response of the Administration to Mr TO's questions - (a) Article 21 of the Hong Kong Bill of Rights (HKBOR) recognized the right to participate in public life without any distinction and without unreasonable restrictions only; (b) according to the Department of Justice (DoJ), the Bill complied with the Basic Law and HKBOR; | |

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|-----------------|--|--|-----------------|
| | | <p>(c) the Administration had not appealed against the High Court judgment having considered, among other factors, the chance of winning the case;</p> <p>(d) the Administration made the policy decision of removing all the restrictions on prisoners' voting right as proposed in the Bill, after consultation with DoJ on relevant legal principles, its own policy consideration and the conduct of a public consultation exercise; and</p> <p>(e) the Administration aimed to complete the legislative process for amending the principal ordinances and the relevant subsidiary legislation before the end of October 2009 when the temporary 10-month suspension order granted by the Court was due to expire.</p> | |
| 003142 - 004005 | Ms Emily LAU Administration Chairman | <p>Practical voting arrangements for remanded unconvicted persons in the Sha Tin District Council Tai Wai Constituency By-election held on 29 March 2009</p> <p>Confirmation of the Administration that no special arrangement had been made before 29 March 2009 to enable remanded unconvicted persons to vote on the election day while being held in custody, although they were entitled to vote.</p> | |
| 004006 - 005211 | Mr James TO Chairman Administration | <p>Response of the Administration to the issues raised by Mr James TO -</p> <p>(a) review of the prisoners' rights other than those related to participation in an election (e.g. the right to be a director of a limited company and a member of an owners' corporation) was outside the scope of the Bill; and</p> <p>(b) the Administration would explain in its paper other practical electoral arrangements raised by Mr TO, such as guidelines for law enforcement agencies to detain persons before or on the polling day, arrangements to protect secrecy of votes, arrangements for remanded unconvicted persons to vote in functional constituency elections and</p> | Admin |

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|--------------------|----------------------------|---|------------------------|
| | | subsector elections, arrangements for prisoners detained in medical wards to vote, access to election-related materials by prisoners, etc. | |
| 005212 - 005604 | ALA9 Administration | Issues raised by ALA9 and the Administration's response (LC Paper Nos. CB(2)1622/08-09(04) and (05)) The Administration's position that the degree of permanency for a person to maintain a place as his residence had no relationship with the duration of the period he resided at that place. | |
| 005605 - 005746 | Chairman Administration | Agenda items for the next meeting - (a) Administration's response to the issues raised by members at this meeting; and (b) Clause-by-clause examination of the Bill. | |