

**立法會**  
***Legislative Council***

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(These minutes have been seen  
by the Administration)

Ref : CB2/BC/5/02

**Bills Committee on  
National Security (Legislative Provisions) Bill**

**Minutes of meeting  
held on Tuesday, 22 April 2003 at 2:30 pm  
in the Chamber of the Legislative Council Building**

**Members present** : Hon IP Kwok-him, JP (Chairman)  
Hon Ambrose LAU Hon-chuen, GBS, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Dr Hon David CHU Yu-lin, JP  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, JP  
Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Dr Hon LUI Ming-wah, JP  
Hon NG Leung-sing, JP  
Hon Margaret NG  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching, JP  
Hon CHAN Kwok-keung  
Hon Bernard CHAN, JP  
Hon CHAN Kam-lam, JP  
Hon LEUNG Yiu-chung  
Hon SIN Chung-kai  
Hon Andrew WONG Wang-fat, JP  
Dr Hon Philip WONG Yu-hong  
Hon WONG Yung-kan  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Howard YOUNG, JP  
Hon YEUNG Yiu-chung, BBS  
Hon LAU Kong-wah

Hon Miriam LAU Kin-yee, JP  
Hon CHOY So-yuk  
Hon Andrew CHENG Kar-foo  
Hon SZETO Wah  
Hon Timothy FOK Tsun-ting, SBS, JP  
Dr Hon LAW Chi-kwong, JP  
Dr Hon TANG Siu-tong, JP  
Hon Henry WU King-cheong, BBS, JP  
Hon Michael MAK Kwok-fung  
Hon LEUNG Fu-wah, MH, JP  
Dr Hon LO Wing-lok  
Hon WONG Sing-chi  
Hon LAU Ping-cheung  
Hon MA Fung-kwok, JP

**Members  
absent** : Hon Fred LI Wah-ming, JP  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon James TO Kun-sun  
Hon LAU Chin-shek, JP  
Hon LAU Wong-fat, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Public Officers :** Mrs Regina IP, GBS, JP  
**attending** Secretary for Security  
  
Mr Timothy TONG, JP  
Permanent Secretary for Security (Acting)  
  
Mr Bob ALLCOCK, BBS, JP  
Solicitor General  
  
Mr Gilbert MO  
Deputy Law Draftsman  
  
Ms Winnie NG  
Administrative Assistant to Secretary for Security  
  
Mr Johann WONG  
Principal Assistant Secretary for Security

Miss Adeline WAN  
Senior Government Counsel

Ms Francoise LAM  
Senior Government Counsel

Mr Hubert LAW  
Assistant Secretary for Security

**Clerk in attendance** : Mrs Sharon TONG  
Chief Assistant Secretary (2)1

**Staff in attendance** : Mr Jimmy MA, JP  
Legal Adviser

Ms Bernice WONG  
Assistant Legal Adviser 1

Mr Raymond LAM  
Senior Assistant Secretary (2)5

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## **I. Meeting with the Administration**

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

2. The Bills Committee requested the Administration to provide a written response to the following issues raised and information sought by members -

### Subversion

- (a) whether the acts referred to in paragraph 53 of the submission from Hong Kong Bar Association (Submission No. 53) would amount to subversion;
- (b) whether the following acts in Beijing of a Hong Kong Special Administrative Region (HKSAR) permanent resident would be caught by the proposed section 2A(1)(c) of the Crimes Ordinance (CO) -
  - (i) joining movements in the Mainland like the one in Beijing in June 1989;

- (ii) joining supporters of the Association of Falun Dafa in besieging Zhongnanhai (中南海);
- (c) providing a list of the relevant statutory provisions under which the acts referred to in the proposed section 2A(4)(b) of CO were offences in Hong Kong (paragraph B7 of the Schedule to Paper No. 6);
- (d) in the light of doubts raised by the Hong Kong Bar Association, explaining the basis in law for the extra-territorial application proposed in new section 2A(3) of CO;

Conspiracy and attempt to do acts outside Hong Kong

- (e) explaining the effect of the proposed section 2C of CO and whether it was only directed at conspiracy or attempt in Hong Kong of persons who were not HKSAR permanent residents to do acts outside Hong Kong, which would, if done in Hong Kong, be an offence of subversion or secession;

Sedition

- (f) whether there were any provision in the laws of Hong Kong providing that inciting others to commit an offence was not an offence; and
- (g) whether reference to the act referred to in the proposed section 9A(1)(b) of CO should be included in the proposed section 9C of CO.

**II. Any other business**

Additional meeting to receive the views of the public on the Bill

3. The Bills Committee agreed that an additional meeting to receive the views of the public on the Bill would be held on 3 May 2003 from 2:00 pm to 5:30 pm. The Chairman reminded the meeting that the deadline for request to make oral representation to the Bills Committee would be 25 April 2003. Miss Margaret NG said that the presentation time of deputations who had spent much time in studying the Bill should not be limited to five minutes. The Chairman said that it was the usual practice that deputations/individuals were each given about five minutes for presentation at meetings to receive the views of the public. He added that after the presentation of views, there would be about one hour during which deputations/individuals responded to questions from members, as in the case of the meeting on 12 April 2003.

4. The meeting ended at 6:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
7 May 2003

**Proceedings of the meeting of the Bills Committee on  
National Security (Legislative Provisions) Bill  
on Tuesday, 22 April 2003 at 2:30 pm  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000-000343	Chairman Hon Margaret NG	Opening remarks and order of discussion	
000344-001817	Hon Albert HO Hon CHEUNG Man-kwong Hon Martin LEE Hon SZETO Wah Clerk Chairman Hon LEE Cheuk-yan	Minutes of previous meetings and provision of the Administration's response to issues raised by members	
001818-003553	Hon LAU Kong-wah Hon Margaret NG Chairman Admin	Meaning of the terms "secession" and "withdraws" in the proposed section 2B of the Crimes Ordinance (CO)	
003554-004010	Hon Howard YOUNG Administration	Whether advocating the "two state theory"(兩國論) would constitute secession	
004011-004429	Hon Jasper TSANG Administration	Why there was a need for the expression "that seriously endangers the territorial integrity of the People's Republic of China" in the proposed section 2B(1)(a)	
004430-004745	Hon NG Leung-sing Administration	How prosecution would be instituted after secession had taken place	
004746-005009	Hon HUI Cheung-ching Administration Chairman	Meaning of the expression "at war" in the proposed section 2B(4)(a)	
005010-005941	Hon Margaret NG Administration	Whether the invasion of the People's Republic of China by foreign armed forces should be excluded from provisions relating to subversion; comparison of the proposed subversion offence with similar offences in other jurisdictions; examples of acts that would constitute "intimidates the Central People's Government"	

Time marker	Speaker	Subject(s)	Action Required
005942-010433	Hon WONG Yung-kan Administration	Whether threatening to attack the Central People's Government with warships and other weapons in open sea would be caught by the proposed section 2A(1)(c) of CO; whether interference with television broadcasts would constitute an act under the proposed section 2A(4)(b)(v)	
010434-010826	Hon LAU Kong-wah Administration	How prosecution would be instituted after secession had taken place	
010827-012143	Hon Margaret NG Administration Chairman	Comparison of the proposed subversion offence with similar offences in other jurisdictions; acts that would constitute "intimidates the Central People's Government"; whether acts of joining movements in the Mainland like the one in Beijing in June 1989 or joining supporters of the Association of Falun Dafa in besieging Zhongnanhai (中南海) in Beijing of a Hong Kong Special Administrative Region (HKSAR) permanent resident would be caught by the proposed section 2A(1)(c) of the Crimes Ordinance (CO); whether the acts referred to in paragraph 53 of the submission from Hong Kong Bar Association (Submission No. 53) would amount to subversion	<b>Admin to provide a response on whether such acts in the Mainland of a HKSAR permanent resident would be caught by the proposed section 2A(1)(c) of CO, and whether the acts referred to in paragraph 53 of the submission from Hong Kong Bar Association would amount to subversion</b>
012144-012352	Hon HUI Cheung-ching Administration	Why there was a need for the proposed sections 2A(3) and 2B(3) of CO	
012353-013319	Hon Margaret NG Administration	Comparison of the definition of "serious criminal means" in the Bill with that in the United Nations (Anti-Terrorism Measures) Ordinance; list of the relevant statutory provisions under which the acts referred to in the proposed section 2A(4)(b) of CO were offences in Hong Kong (paragraph B7 of the Schedule to Paper No. 6)	<b>Admin to provide a list of the relevant statutory provisions under which the acts referred to in the proposed section 2A(4)(b) of CO were offences in Hong Kong</b>
013320-013613	Hon Howard YOUNG Administration Chairman	Why there was a need for the expression "other than the person who does the act" in the proposed section 2A(4)(b)(i) and (ii) of CO	
013614-013754	Hon Margaret NG Administration Chairman	The basis in law for the extra-territorial application proposed in new section 2A(3) of CO	<b>Admin to provide a response</b>

Time marker	Speaker	Subject(s)	Action Required
013755-013827	Hon HUI Cheung-ching Chairman Administration	Whether sleeping on rails would fall within the meaning of "serious criminal means"	
013828-014039	Chairman Hon Margaret NG Administration	Briefing on the proposed section 2C of CO	
014040-014635	Hon Margaret NG Administration	Why the proposed section 2C of CO only made reference to sections 159A and 159G of CO; relationship of the proposed section with the relevant provisions in the Criminal Jurisdiction Ordinance; why conspiracy or attempt to do certain acts were not directly provided in the respective offence provisions in the Bill	
014636-015427	Hon Jasper TSANG Administration Hon Margaret NG Chairman	Effect of the proposed section 2C of CO and whether it was only directed at conspiracy or attempt in Hong Kong of persons who were not HKSAR permanent residents to do acts outside Hong Kong, which would, if done in Hong Kong, be an offence of subversion or secession	<b>Admin to explain the effect of the proposed section 2C of CO and whether it was only directed at conspiracy or attempt in Hong Kong of persons who were not HKSAR permanent residents to do acts outside Hong Kong</b>
015428-015600	Hon Howard YOUNG Chairman	Discussion of issues related to sedition	
[Break]			
020728-021508	Hon Margaret NG Administration Chairman	Issues raised in paragraphs B11 and B12 of the Schedule to Paper No. 6; why conspiracy and attempt to do certain acts were not directly provided in the respective offence provisions in the Bill	
021509-021833	Hon Howard YOUNG Administration	Whether advocating the "two state theory"(兩國論) would constitute sedition	
021834-021935	Hon Kenneth TING Administration	Whether inciting others with speech to commit an offence would amount to sedition	
021936-022744	Hon LAU Kong-wah Administration	Difference between the offences in the proposed section 9A(1)(a) and (b) of CO; maximum penalty for an offence under the proposed section 9A(1)(a) of CO	



Time marker	Speaker	Subject(s)	Action Required
022745-023149	Hon HUI Cheung-ching Administration	Determination of whether a publication was seditious	
023150-023644	Hon CHAN Kam-lam Administration	Prosecution against handling seditious publications and local legislation under which seditious publications could be seized	
023645-023659	Hon YEUNG Yiu-chung Administration	Why there was not a maximum limit for a fine under the proposed section 9A(2)(b) of CO	
023700-023900	Administration	Comparison of the maximum penalty for an offence under the proposed section 9A(1)(a) of CO and that under other local legislation	
023901-024214	Hon Henry WU Administration	Whether there was any mechanism for assessing whether a publication was seditious	
024215-024551	Hon LAU Ping-cheung Administration	Whether downloading seditious publications from the Internet would constitute handling seditious publication	
024552-030941	Hon Margaret NG Administration	Difference in meaning between the Chinese and English versions of the term "sedition"; meaning of the term "incite" in the proposed section 9A(1) of CO; discussion of offences related to inchoate and accomplice acts; whether the proposed definition of sedition was too broad	
030942-031614	Hon Howard YOUNG Administration	Whether the proposed section 9B of CO would substantially narrow the scope of the proposed section 9A(1); whether there were any provision in the laws of Hong Kong providing that inciting others to commit an offence was not an offence	<b>Admin to provide a response on whether there were any provision in the laws of Hong Kong providing that inciting others to commit an offence was not an offence</b>
031615-032013	Hon LAU Kong-wah Administration	Whether there was the element of knowledge or reasonable suspicion in the proposed sedition offence; whether reference to the act referred to in the proposed section 9A(1)(b) of CO should be included in the proposed section 9C of CO	<b>Admin to provide a response on whether reference to the act referred to in the proposed section 9A(1)(b) of CO should be included in the proposed section 9C of CO</b>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
032014-032557	Hon Miriam LAU Administration	Whether there was a time limit for instituting prosecution under the proposed section 9A(1) of CO	
032558-033059	Hon CHAN Kam-lam Administration	Whether the proposed section 9B of CO would substantially narrow the scope of the proposed section 9A(1)	
033100-033629	Chairman Administration	Whether an old publication which advocated armed class struggle would fall within the definition of a "seditious publication"	
033630-034704	Hon Margaret NG Administration	Whether the proposed section 9B of CO would substantially narrow the scope of the proposed section 9A(1); whether the proposals in the proposed section 9A(1) of CO were beyond the requirement imposed by Article 23 of the Basic Law regarding sedition; views of the Hong Kong Bar Association on the proposed sedition offence	
034705-035614	Hon LAU Kong-wah Hon Miriam LAU Hon Margaret NG Chairman Admin	Whether there was a need for the proposed section 9D of CO; prosecutions regarding an old seditious publication of an author who had died	
035615-040024	Chairman Hon Margaret NG	Scheduling of an additional meeting to receive the views of the public on the Bill	