

立法會
Legislative Council

Ref : CB2/BC/5/02

LC Paper No. CB(2)2172/02-03

(These minutes have been
seen by the Administration)

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

**Minutes of meeting
held on Saturday, 3 May 2003 at 2:00 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 Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Kam-lam, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Howard YOUNG, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon LAU Kong-wah
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon TAM Yiu-chung, GBS, JP
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LEUNG Fu-wah, MH, JP
Hon MA Fung-kwok, JP

**Members :
absent**

Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon Bernard CHAN, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon YEUNG Yiu-chung, BBS
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yee, JP
Hon Andrew CHENG Kar-foo
Dr Hon LAW Chi-kwong, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

**Public Officers :
attending**

Mrs Regina IP, GBS, JP
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

Attendance by : Law Association, Hong Kong University Student Union
invitation

Mr LIU Kwun-wa, William
External Vice-Chairman

Hong Kong Polytechnic University Student Union

Mr YEUNG Man-yau
External Affairs Secretary

Union of Hong Kong Catholic Organizations in Support of the
Patriotic & Democratic Movement in China

Miss Christine OR
Project Officer

The Law Society of Hong Kong

Mr Peter LO

Hong Kong Bar Association

Mr Philip DYKES, SC
Vice Chairman

Article 23 Concern Group

Mr Alan LEONG, SC
Member

The Hong Kong Executive, Administrative & Clerical Staff
Association

Mr KAN Kim-shing

Hong Kong Federation of Women

Mrs Peggy LAM, SBS, OBE
Chairperson

The King Chung Association

Mr WAN Hing-sheung
Chairman

Tseung Kwan O Fujianese Association

Mr YIP Chun-keung
Chairman

The Hong Kong Eastern District Community Association

Mr TSANG Heung-kwan

The Foochow Association Limited

Mr LAM Faat-kang

The University of Hong Kong Students Union

Ms LEUNG Sin-yue, Elisa
Vice-President (External)

The Joint Committee of Hong Kong Free Societies concerning the
Legislation of Article 23 of the Basic Law

Mr LEUNG Hon-wa
Spokesman

Asian Human Rights Commission

Mr WONG Kai-shing
Program Coordinator

Hong Kong Federation of Employees in Public Utilities

Mr TANG Koon-yeung
Chairman

Hong Kong Construction Industry Employees General Union

Mr CHOI Chun-wa
Chairman

The Student Union of the Hong Kong Shue Yan College

Mr YU Kwun-wai
External Vice-President

Hong Kong Federation of Journalists

Mr CHAN Sze-kwok
Chairman

Neighbourhood and Worker's Service Centre

Mr TAM Leung-ying

Hong Kong News Executives' Association

Ms May CHAN
Chairman

Mr LO Wai-ming

The Society of Publishers in Asia

Mr Cyril PEREIRA
Chairman

Mr Benjamin Tsz-ming LIU

Mr GU Minkang
School of Law, City University of Hong Kong

China Labour Bulletin

Mr HAN Dong-fang

Hong Kong Federation of Catholic Students

Mr WU Tin-hang
External Vice-President

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

Staff in attendance : Mr Jimmy MA, JP
Legal Adviser

Miss Mary SO
Senior Assistant Secretary (2)8

I. Meeting with deputations/individuals

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

2. The Bills Committee received the views of the following deputations/individuals on the Bill -

- (a) Hong Kong Polytechnic University Student Union;
- (b) Union of Hong Kong Catholic Organizations in Support of the Patriotic & Democratic Movement in China;
- (c) The Law Society of Hong Kong;
- (d) Hong Kong Bar Association;
- (e) The Hong Kong Executive, Administrative & Clerical Staff Association;
- (f) Hong Kong Federation of Women;
- (g) The King Chung Association;
- (h) Tseung Kwan O Fujianese Association;
- (i) The Hong Kong Eastern District Community Association;
- (j) The Foochow Association Limited;
- (k) The University of Hong Kong Student Union;
- (l) The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law;
- (m) Asian Human Rights Commission;
- (n) Hong Kong Federation of Employees in Public Utilities;
- (o) Hong Kong Construction Industry Employees General Union;

- (p) The Student Union of the Hong Kong Shue Yan College;
- (q) Hong Kong Federation of Journalists;
- (r) Neighbourhood and Worker's Service Centre;
- (s) Hong Kong News Executives' Association;
- (t) Mr LO Wai-ming;
- (u) The Society of Publishers in Asia;
- (v) Mr LIU Tsz-ming, Benjamin;
- (w) Mr GU Mingkang, School of Law, City University of Hong Kong;
- (x) China Labour Bulletin;
- (y) Hong Kong Federation of Catholic Students;
- (z) Law Association, Hong Kong University Student Union; and
- (aa) Article 23 Concern Group.

3. Regarding the adaptation of reference in various parts of the Ordinances covered by the Bill, Miss Margaret NG requested the Hong Kong Bar Association to provide its written views on the legal effect of the unadapted references in these Ordinances.

4. Mr HUI Cheung-ching requested the Secretariat to seek clarification from Mr GU Mingkang on his views on the proposed offence of treason under the Bill vis-à-vis similar offence under Mainland law.

5. In response to the allegation by the representative of Hong Kong Polytechnic University Student Union and Mr LO Wai-ming that LegCo staff prohibited a group of students from staging a protest to oppose the enactment of the Bill outside the LegCo Building about noontime, the Chairman said that according to the LegCo Secretariat, it was established practice for protesters to stage protests in the designated demonstration area outside the LegCo Building. However, the students refused to stage their protest inside the designated demonstration area when they were advised to. They were of the view that they had the freedom to stage a protest anywhere they liked. As the Bills Committee was not in a position to deal with the allegation, the Chairman suggested and members agreed that the matter be referred to the LegCo Commission for follow-up. Mr CHAN Kam-lam said that these students had intercepted and used foul language at members when the latter were leaving the LegCo Building after attending

the meeting of the Bills Committee held that morning. Such behaviour should also be brought to the attention of the LegCo Commission.

II. Date of next meeting

6. The Bills Committee would next meet on 10 May 2003 at 9:00 am.
7. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 2
Legislative Council Secretariat
22 May 2003

**Proceedings of the meeting of the Bills Committee on
National Security (Legislative Provisions) Bill
on Saturday, 3 May 2003 at 2:00 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000933	Chairman	Opening remarks	
000934 - 001337	Hong Kong Polytechnic University Student Union	Allegation that LegCo staff prohibited a group of students from staging a protest to oppose the enactment of the Bill outside the designated demonstration assembly area outside the LegCo Building Presentation of views (submission no. 123)	
001338 - 001444	Chairman	Welcoming remarks to the Administration	
001445 - 002357	Union of Hong Kong Catholic Organizations in Support of the Patriotic & Democratic Movement in China	Presentation of views (submission no. 124)	
002358 - 003147	The Law Society of Hong Kong	Presentation of views (submission no. 125)	
003148 - 003724	Hong Kong Bar Association	Presentation of views (submission no. 53)	
003725 - 004327	The Hong Kong Executive, Administrative & Clerical Staff Association	Presentation of views (submission no. 126)	
004328 - 004946	Hong Kong Federation of Women	Presentation of views (submission no. 127)	
004947 - 005745	The King Chung Association	Presentation of views (submission no. 46)	
005746 - 010125	Tseung Kwan O Fujianese Association	Presentation of views (submission no. 128)	
010126 - 010719	The Hong Kong Eastern District Community Association	Presentation of views (submission no. 130)	
010720 - 010927	The Foochow Association Limited	Presentation of views (submission no. 131)	
010928 - 011359	The University of Hong Kong Student Union	Presentation of views (submission no. 132)	
011400 - 011910	The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law	Presentation of views (submission no. 134)	

Time marker	Speaker	Subject(s)	Action Required
011911 - 012606	Asian Human Rights Commission	Presentation of views (submission no. 135)	
012607 - 013107	Hong Kong Federation of Employees in Public Utilities	Presentation of views (submission no. 136)	
013108 - 013549	Hong Kong Construction Industry Employees General Union	Presentation of views (submission no. 137)	
013550 - 013924	The Student Union of the Hong Kong Shue Yan College	Presentation of views (submission no. 138)	
013925 - 014411	Hong Kong Federation of Journalists	Presentation of views (submission no. 140)	
014412 - 014844	Neighbourhood and Worker's Service Centre	Presentation of views (submission no. 141)	
014845 - 015422	Hong Kong News Executives' Association	Presentation of views (submission no. 142)	
015423 - 015909	Mr LO Wai-ming	Allegation that LegCo staff prohibited a group of students from staging a protest to oppose the enactment of the Bill outside the designated demonstration assembly area outside the LegCo Building Presentation of views (submission no. 143)	
015910 - 020851	The Society of Publishers in Asia	Presentation of views (submission no. 144)	
020852 - 021330	Mr LIU Tsz-ming, Benjamin	Presentation of views (submission no. 145)	
021331 - 021940	Mr GU Mingkan, School of Law, City University of Hong Kong	Presentation of views (submission no. 147)	
021941 - 022719	China Labour Bulletin	Presentation of views (submission no. 148)	
022720 - 023318	Hong Kong Federation of Catholic Students	Presentation of views (submission no. 149)	
023319 - 022427	Law Association, Hong Kong University Student Union	Presentation of views (submission no. 122)	
024228 - 025459	Article 23 Concern Group	Presentation of views (submission no. 121)	
025500 - 030006	Mr LEUNG Fu-wah and Article 23 Concern Group	Expression of "seriously endangers" referred to in new sections 2A(1) and 2B(1)(a) of the Crimes Ordinance (Cap. 200)	
030007 - 030058	Ms Emily LAU and Chairman	Follow-up on the allegation that LegCo staff prohibited a group of students from staging a protest to oppose the enactment of the Bill outside the designated demonstration area outside the LegCo	

Time marker	Speaker	Subject(s)	Action Required
		Building	
030059 - 030713	Ms Emily LAU and Hong Kong News Executives' Association and Chairman	Impact on the freedom to gather and report news if the Bill was enacted in its current form	
030714 -	Miss Margaret NG and Hong Kong Bar Association	<p>Legal effect of the unadapted references in the Ordinances covered by the Bill</p> <p>Constitutionality of excluding the appellant and his lawyer from attending the hearing of appeal against proscription</p> <p>Appropriateness of empowering the Chief Justice or the Chief Executive in Council to make rules in relation to appeals against proscription</p>	✓ (Hong Kong Bar Association to provide its written views on the legal effect of the unadapted references in the Ordinances covered by the Bill)
031624 - 033022	Mr NG Leung-sing, Hong Kong News Executives' Association, Hong Kong Federation of Journalists and Chairman	<p>Reason why the Hong Kong News Executives' Association indicated its intention to give oral representation to the Bills Committee after the expiry of the relevant deadline</p> <p>Whether the survey conducted by the Hong Kong News Executives' Association on the Bill covered owners of news agencies</p> <p>Differing views of the Hong Kong News Executives' Association and the Hong Kong Federation of Journalists on the impact of the Bill on the freedoms to gather and report news</p>	
033023 - 034333	Mr TAM Yiu-chung and Article 23 Concern Group	<p>Reason why Mr Alan LEONG subsequently retracted his support for the Consultation Document on the Proposals to Implement Article 23 of the Basic Law (the Consultation Document) made during a television programme to discuss the Consultation Document on 24 September 2002</p> <p>Whether the Department of Justice and/or the Security Bureau had sought the views of the Hong Kong Bar Association on the Consultation Document prior to the publication of the Consultation Document on 24 September 2002</p> <p>Reason why Article 23 Concern Group had such negative views on the ways which the Administration and the Judiciary would exercise the powers provided to them under the Bill</p> <p>Justification for suspending the scrutiny of the Bill until the outbreak of atypical pneumonia in Hong Kong was resolved</p> <p>Adequacy of the Bill to address issues arising from the implementation of the proposed new offences</p>	

Time marker	Speaker	Subject(s)	Action Required
034334 - 034430	Mr HUI Cheung-ching and Chairman	Sought clarification from Mr GU Mingkang on his views on the proposed offence of treason under the Bill vis-à-vis similar offence under the Mainland law	✓ (Clerk to follow-up)
034431 - 035329	Mr SZETO Wah, Mr NG Leung-sing and Article 23 Concern Group	Acts which would constitute an offence under the new section 9A(2) of the Crimes Ordinance	
035330 - 042044	Mr Albert HO, Article 23 Concern Group, Administration, Miss Margaret NG and Mr Martin LEE	Concerned that the vagueness in many parts of the Bill would put the courts in a very difficult situation as the proposed offences invariably related to rights and freedoms, which were always not a matter of black or white	
042045 - 042339	Mr CHAN Kam-lam and Article 23 Concern Group	Reason why the outcome of the act and not its culpability should be considered "serious criminal means" as referred to in new section 2A(4)(b) of the Crimes Ordinance A person could be easily caught by the proposed offence of sedition, as sedition was defined as inciting others to commit treason, subversion, secession or to engage in violent public disorder Vague wordings in many parts of proposed definitions of treason, subversion and secession Appropriateness of using intent as an element for committing an offence which was purely political in nature	
042340 - 042810	Chairman, Miss Margaret NG and Mr CHAN Kam-lam	Follow-up on the allegation that LegCo staff prohibited a group of students from staging a protest to oppose the enactment of the Bill outside the designation demonstration area outside the LegCo Building	✓ (Clerk to refer the matter to the LegCo Commission for consideration)