

立法會
Legislative Council

LC Paper No. CB(2)1911/06-07
(These minutes have been
seen by the Administration)

Ref : CB2/BC/2/06

**Bills Committee on
Race Discrimination Bill**

**Minutes of meeting
held on Friday, 23 March 2007, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Abraham SHEK Lai-him, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon CHOY So-yuk, JP
Hon LI Fung-ying, BBS, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon WONG Ting-kwong, BBS
Hon TAM Heung-man

Members absent : Dr Hon LUI Ming-wah, SBS, JP
Hon Bernard CHAN, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Ronny TONG Ka-wah, SC

- Public Officers attending** : Mr Donald TONG
Deputy Secretary for Home Affairs(1)
- Mr Victor NG
Principal Assistant Secretary for Home Affairs (4)
- Ms Bernadette LINN
Deputy Secretary for Education and Manpower (2)
- Ms Pecvin YONG
Assistant Secretary (Infrastructure & Research Support)2, Education and Manpower Bureau
- Ms Roxana CHENG
Senior Assistant Solicitor General
- Miss Betty CHEUNG
Senior Government Counsel
- Miss Shandy LIU
Senior Government Counsel
- Clerk in attendance** : Miss Flora TAI
Chief Council Secretary (2)2
- Staff in attendance** : Mr KAU Kin-wah
Assistant Legal Adviser 6
- Ms Joanne MAK
Senior Council Secretary (2)2
- Miss Kiwi NG
Legislative Assistant (2)2

Action

I. Confirmation of minutes
[LC Paper No. CB(2)1349/06-07]

The minutes of the meeting on 5 February 2007 were confirmed.

Action

II. Meeting with the Administration

(LC Paper No. CB(2)1152/06-07(02) - Paper entitled "The Belgian Linguistics case"

LC Paper No. CB(2)1152/06-07(03) - Paper entitled "Propriety of support measures for ethnic minorities"

LC Paper No. CB(2)1351/06-07(01) - Paper entitled "Affirmative action in the United States"

LC Paper No. CB(2)1351/06-07(02) - Paper entitled "Follow-up information on education for the ethnic minorities"

LC Paper No. CB(2)1019/06-07(04) - Paper entitled "Compatibility with Articles 24 and 25 of Basic Law"

LC Paper No. CB(2)1019/06-07(02) - Paper entitled "Discriminatory advertisements"

LC Paper No. CB(2)1019/06-07(03) - Paper entitled "Consequential amendments to other ordinances"

LC Paper No. CB(3)176/06-07 - The Bill

Ref : HAB/CR/1/19/102 - Legislative Council Brief)

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

3. The Administration was requested to -

(a) advise whether the imposition of the Chinese Language requirement for entry to universities on all local students, which would put non-Chinese speaking (NCS) students at a great disadvantage, constituted indirect discrimination;

(b) explain whether it would be allowed under Clause 49 of the Bill for a university to give favourable weighting in its admission system to ethnic minority students (provided that they met the English Language requirement and a lower-level Chinese Language requirement) for the sake of achieving racial diversity in student population and, if this was unlawful under the Bill, suggest other alternatives (apart from the provision of the General Certificate of Secondary Education (GCSE) (Chinese) examination as an alternative qualification in Chinese Language)

Action

to ensure equal opportunities for NCS students in university admission; and

- (c) information on the number of local NCS students currently studying at universities.

4. The Administration undertook to follow up with the University Grants Committee (UGC)-funded institutions on Mr Howard YOUNG's suggestion that, in order to prevent possible abuse by local Chinese-speaking students, students taking the GCSE (Chinese) examination would be required to get supplementary credits from other spoken language.

5. At the suggestion of the Chairman, members agreed to continue the discussion on the subject of university admissions in respect of NCS students when there was an outcome of the Education and Manpower Bureau's discussion with the UGC-funded institutions.

Issues to be discussed at future meetings

6. The Chairman requested the Administration to provide consolidated written response to the views expressed by deputations at the meeting on 3 March 2007 including their written views, for discussion at the next meeting to be held on Thursday, 19 April 2007 at 8:30 am. The Administration was also requested to include reference to relevant provisions of the Bill in its consolidated response. At the suggestion of the Chairman, members agreed that the Bills Committee would also discuss at the next meeting the comparison table of the provisions of the Bill with those of the Race Relations Act 1976 of the United Kingdom [LC Paper No. LS48/06-07] prepared by the legal adviser to the Bills Committee.

7. There being no other business, the meeting ended at 10:25 am.

Council Business Division 2
Legislative Council Secretariat
18 May 2007

**Proceedings of the meeting of Bills Committee on
Race Discrimination Bill
on Friday, 23 March 2007, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000549	Chairman	Confirmation of minutes of meeting	
000550 - 001524	Chairman Admin	Introduction of the Administration's paper by Deputy Secretary for Education and Manpower (2) [LC Paper No. CB(2)1351/06-07(02)]	
001525 - 002031	Chairman Dr YEUNG Sum Admin	<p>Dr YEUNG Sum's enquiry about progress of the Administration's discussions with the University Grants Committee (UGC)-funded institutions on the feasibility of accepting alternative qualifications in Chinese.</p> <p>The Administration's report on the progress and initial feedback of the institutions, e.g. their concern about the definition of non-Chinese speaking (NCS) students, and the Administration's plan to report further the progress of discussions with the institutions before the end of the current legislative session.</p>	
002032 - 002939	Chairman Mr CHEUNG Man-kwong Admin	<p>Mr CHEUNG Man-kwong's query as follows -</p> <ul style="list-style-type: none"> - whether the current university admission system amounted to racial discrimination; and - why a quota like that for admission of non-local students could not be set for NCS students. <p>The Administration's explanation that while non-local students might not be required to meet the Chinese language requirement, it did not mean that it would be easier for them to get admitted as they were required to have outstanding performance in other areas. Similarly, a local NCS student might also be admitted on the basis of his/her outstanding performance in other subjects.</p>	

Time marker	Speaker	Subject	Action required
		<p>Mr CHEUNG's request for information on the number of NCS students admitted to local universities over the years. The Administration's brief response as set out in paragraph 13 of its paper.</p>	
002940 - 004808	<p>Chairman Dr Fernando CHEUNG Admin</p>	<p>Dr Fernando CHEUNG's explanation that a student who failed in the Chinese subject would hardly have the chance to be considered by the university as faculties in general were reluctant to admit such local students.</p> <p>Dr CHEUNG's request for information on the number of NCS students who were studying at local universities, and his enquiry of whether the setting of an indicative NCS student number target for the UGC-funded institutions would constitute racial discrimination or a breach of any international human rights treaties applicable to Hong Kong.</p> <p>The Administration's brief response that the 10% quota for non-local students was not a target but a ceiling.</p> <p>The Chairman's view that the imposition of the Chinese Language requirement on all local students, which would put NCS students at a great disadvantage, might constitute indirect discrimination.</p> <p>The Administration's explanation that flexibility had been exercised by universities in that they also accepted alternative qualifications of another second language (e.g. French) and they also admitted students who failed in Chinese but excelled in other subjects. The Administration's reiteration that it was following up with the universities on the feasibility of accepting alternative qualifications in Chinese.</p>	<p>Admin to provide supplementary information (para. 3(c) of minutes)</p>

Time marker	Speaker	Subject	Action required
004809 - 005841	Chairman Mr Howard YOUNG Admin	<p>Mr Howard YOUNG's expression of support for the need to find a solution to resolve the problem of lack of avenue provided to NCS students to attain qualifications in Chinese for admission to universities.</p> <p>Mr YOUNG's suggestion that students taking the GCSE (Chinese) examination should be given extra credits if he/she knew any other language.</p> <p>The Administration's agreement to follow up Mr YOUNG's suggestion with universities.</p>	Admin to follow up Mr YOUNG's suggestion (para. 4 of minutes)
005842 - 010423	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's concern about Mr YOUNG's suggestion because some NCS students could only speak the language which was their mother tongue.</p> <p>The Deputy Chairman's expression of support for Mr CHEUNG Man-kwong's suggestion of setting a quota for admitting NCS students to universities as an interim measure until some years later when the integration of NCS students into mainstream education system proved to be successful.</p>	
010424 - 011114	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's view that given that Chinese and English were the official languages of Hong Kong, the Administration should suggest to universities that they should consider accepting students who only met entry requirement in English Language.</p> <p>The Administration's response that the suggestion, if adopted, would be a fundamental departure from the established policy of bilingual education in Hong Kong and would have profound impact on Hong Kong.</p> <p>Dr CHEUNG's suggestion that an exception be provided for under the Bill for policy measures aimed to resolve the problem of lack of avenue for NCS students to attain qualifications in Chinese for admission to local universities.</p>	

Time marker	Speaker	Subject	Action required
		<p>The Administration's response that if universities accepted alternative qualifications in Chinese, such as that under GCSE, there would be much greater flexibility allowed for NCS students in meeting the Chinese Language requirement.</p>	
011115 - 011402	<p>Chairman Mr Howard YOUNG</p>	<p>Mr Howard YOUNG's view that exempting NCS students from the Chinese Language requirement would be worth consideration. His clarification that what he had earlier suggested was that extra credits be given to a candidate of the GCSE (Chinese) examination provided that he/she could speak any other language.</p>	
011403 - 012029	<p>Chairman Mr CHEUNG Man-kwong Admin</p>	<p>Mr CHEUNG Man-kwong's concern that any departure from the established policy of bilingual education would have a significant impact on the education system in Hong Kong. He pointed out if the problem of lack of avenue provided to NCS students to attain qualifications in Chinese for admission to universities remained unsolved, this established policy might be subject to legal challenge.</p> <p>The Administration's response that in addition to inviting universities to consider accepting alternative qualifications in Chinese, special support measures were being introduced to address the special needs of NCS students in schools.</p>	
012030 - 012224	<p>Chairman Admin</p>	<p>The Chairman's view that the Administration had to resolve the longstanding problem of lack of avenue provided to NCS students to attain qualifications in Chinese for admission to universities at policy level, and the implementation of such policy measures should not be withheld merely due to legal considerations.</p> <p>The Chairman's invitation of the Deputy Secretary for Home Affairs (1) to introduce the Administration's paper. [LC Paper No. CB(2)1351/06-07(01)]</p>	

Time marker	Speaker	Subject	Action required
012225 - 013325	Chairman Mr CHEUNG Man-kwong Admin	<p>Mr CHEUNG Man-kwong's enquiry of whether it would be unlawful under the Bill for a university to put in place a quota for NCS students for admission to the university.</p> <p>The Administration's response that the Bill was to protect all individuals from being discriminated on the ground of race in certain fields including education. Any one who considered that the measure adopted by the university might offer more favourable treatment to ethnic minorities at the expense of non-ethnic minority students and constituted indirect discrimination could take it to the court for redress.</p> <p>Mr CHEUNG's enquiry of whether it would be allowed under the Bill for a university, which intended to admit outstanding students of different racial groups, to give favourable weighting in its admission system to ethnic minority students provided that they met the English Language requirement and a simpler Chinese Language requirement.</p>	Admin to provide written response (para. 3(a) and (b) of minutes)
013326 - 013649	Chairman Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's enquiry of the basis of the Administration's consideration that the quota for admission of non-local students did not constitute indirect discrimination.</p> <p>The Administration's brief response and reference to paragraphs 2 and 3 of its paper [LC Paper No. CB(2)1351/06-07(02)]</p>	
013650 - 013928	Chairman Admin	<p>Brief introduction of the Administration's paper by Deputy Secretary for Home Affairs (1) [LC Paper No. CB(2)1152/06-07(03)]. The Bills Committee's view that it was not necessary to further discuss the paper.</p>	
013929 - 014508	Chairman Admin	<p>Introduction of the Administration's paper by Deputy Secretary for Home Affairs (1) [LC Paper No. CB(2)1019/06-07(04)]</p>	

Time marker	Speaker	Subject	Action required
014509 - 015027	Chairman Admin Mr Howard YOUNG	Introduction of the Administration's paper by Deputy Secretary for Home Affairs (1) [LC Paper No. CB(2)1019/06-07(03)] Mr YOUNG's expression of support for the Administration's position.	
015028 - 015454	Chairman Mr Albert CHAN Mr Howard YOUNG	Date of and issues to be discussed at the next meeting	Admin to provide consolidated response to deputations' views for discussion at the next meeting (para. 6 of minutes)

Council Business Division 2
Legislative Council Secretariat
18 May 2007