

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2195/06-07  
(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 Saturday, 28 April 2007, at 9:30 am**  
**in Conference Room B of the Legislative Council Building**

- Members present** : Hon Albert HO Chun-yan (Chairman)  
Hon James TO Kun-sun  
Hon Emily LAU Wai-hing, JP  
Dr Hon Fernando CHEUNG Chiu-hung
- Member absent** : Hon CHOY So-yuk, JP
- 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** : Mr C Raj KUMAR  
Assistant Professor  
The School of Law, City University of Hong Kong  
(and also Honorary Consultant, National Human Rights  
Commission, New Delhi, India)

Ms LAU Pui-king

Associate Professor  
School of Accounting and Finance  
The Hong Kong Polytechnic University  
(and also Hong Kong Deputy to the National People's  
Congress of the People's Republic of China)

Hong Kong Human Rights Monitor

Mr LAW Yuk-kai  
Director

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

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

---

Action

**I. Review of the existing human rights mechanisms in Hong Kong**  
[LC Paper Nos. CB(2) 1662/06-07(01), CB(2)1014/06-07(03), (04) and (05), CB(2)1069/06-07(01), IN04/06-07, IN05/06-07 and IN06/06-07]

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

2. Members received the following academics/deputation to present views on the existing human rights mechanisms in Hong Kong -

- (a) Mr C Raj KUMAR;
- (b) Ms LAU Pui-king; and
- (c) Hong Kong Human Rights Monitor (HKHRM)

*(Post-meeting note: Copies of papers relating to the subject of establishing an independent human rights commission in Hong Kong, as provided by Mr C Raj KUMAR and tabled at the meeting, were circulated to members vide LC Paper No. CB(2)1731/06-07 issued on 2 May 2007.)*

Admin 3. The Administration was requested to provide written responses to the following issues raised by members -

Action

- (a) whether there is any room for improvement in the existing human rights protection mechanisms; and if so, the areas for improvement;
- (b) whether documents relating to the Administration's review of the need for establishing an independent human rights commission in Hong Kong could be released; and
- (c) whether the legal aid services, the Equal Opportunities Commission (EOC), the Office of the Privacy Commissioner for Personal Data (OPCPD) and the Ombudsman as mentioned in paragraph 4 of the Administration's paper [LC Paper No. CB(2)1662/06-07(01)] could be in compliance with the Paris Principles in various areas such as competence, responsibilities, composition and method of operations; and if not, the reasons for that.

Clerk 4. At the suggestion of Ms Emily LAU, members were requested to inform the Clerk if they wish to add any additional issue for the Administration to provide written responses.

Admin 5. The Administration undertook to provide the report of the Hong Kong Special Administrative Region (HKSAR) Government to the United Nations (UN) under the International Covenant on Civil and Political Rights (ICCPR) regarding the follow-up of its recommendations for the discussion of the Panel on Home Affairs (HA Panel) when it had been submitted by the Central People's Government to the UN and published.

Clerk 6. Ms Emily LAU suggested that the HA Panel should discuss the follow-up report when available. Members noted that the issue had been included in the HA Panel's list of outstanding items for discussion.

7. At the suggestion of the Chairman, members agreed that, in order to facilitate a more structured discussion on the subject, the Subcommittee should focus its discussion on three major areas at future meetings -

- (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 before deciding on the way forward.

Clerk 8. Members agreed that the Subcommittee should invite the Administration, Mr C Raj KUMAR, Ms LAU Pui-king and Mr LAW Yuk-kai of HKHRM to attend its next meeting to follow up on the discussion on the review of existing human rights mechanisms in Hong Kong. At the invitation of the Chairman, Mr LAW Yuk-kai of HKHRM agreed to provide a further submission on HKHRM's views on

HKHRM

Action

the three areas as referred to in paragraph 7 for the Subcommittee's discussion at the next meeting. The Chairman also invited Mr C Raj KUMAR and Ms LAU Pui-king to provide their views, if any, on HKHRM's further submission.

**II. Any other business**

Date of the next meeting

9. Members agreed that the Subcommittee would hold its next meeting on Friday, 22 June 2007 from 5:00 pm to 7:00 pm (immediately after the Finance Committee meeting scheduled for 3:00 pm on the same day).

10. There being no other business, the meeting ended at 11:30 am.

Council Business Division 2  
Legislative Council Secretariat  
20 June 2007

**Proceedings of the meeting of Subcommittee on  
Human Rights Protection Mechanisms  
on Saturday, 28 April 2007, at 9:30 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000629	Chairman	Opening remarks	
000630 - 001400	Mr C Raj KUMAR	Presentation of views as set out in LC Paper No. CB(2)1731/06-07(01).	
001401 - 002227	Ms LAU Pui-king	<p>Presentation of views as follows -</p> <ul style="list-style-type: none"> <li>- the rights and freedoms enjoyed by Hong Kong residents were guaranteed under the Basic Law and human rights were protected under the existing legal system;</li> <li>- as the existing mechanisms were effective in protecting human rights, there was a need to consider the cost and effectiveness of establishing a new human rights commission (HRC) in Hong Kong;</li> <li>- the deficiencies in the existing human rights protection mechanisms as identified by non-governmental organisations (NGOs) could be rectified by amending the relevant legislation to expand the mandate of the existing institutions; and</li> <li>- the problems associated with human rights violations could not be eradicated merely by establishing a HRC in Hong Kong.</li> </ul>	
002228 - 003701	Mr LAW Yuk-kai	<p>Presentation of views as set out in LC Paper No. CB(2)1014/06-07(04)]</p> <p>Request for the Administration to release documents relating to its review of the need for establishing an independent HRC in Hong Kong which should have been completed for a long time.</p>	

Time marker	Speaker	Subject(s)	Action required
003702 - 004236	Admin	<p>Briefing of the Administration's paper on its response to the views of academics/deputation [LC Paper No. CB(2)1662/06-07(01)]</p> <p>The Administration's reiteration that it had to take into full account the actual situation in Hong Kong in considering whether or not the recommendations made by the United Nations (UN) committees under various international human rights treaties could be implemented in Hong Kong. In the past, the Administration did adopt some of these recommendations proposed by the relevant UN committees e.g. the introduction of Race Discrimination Bill and the legislative proposal for converting the Independent Police Complaints Council into a statutory body. The Administration did not see the need and had no plan to establish a HRC in Hong Kong. However, it would continue to listen to the views of different sectors of the community in this regard.</p>	
004237 - 005616	Dr Fernando CHEUNG Admin	<p>Dr Fernando CHEUNG's enquiries about the HKSAR Government's report to UN regarding its review of the human rights mechanisms in Hong Kong; the Administration's stance on adopting the Paris Principles in establishing a HRC in Hong Kong; and as whether there was any room for further improvement in the existing human rights mechanisms.</p> <p>The Administration's response as follows -</p> <ul style="list-style-type: none"> <li>- the Administration respected the Paris Principles but as a responsible Government, it must take into full account the local circumstances in considering whether the recommendations of the UN committees of the international human rights treaties should be implemented in Hong Kong;</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li>- a number of improvement measures had been introduced to further enhance the existing mechanisms e.g. implementation of measures to restore EOC's credibility and the introduction of Race Discrimination Bill;</li> <li>- clarification that the follow-up information requested by the UN Human Rights Committee (UNHRC) in its concluding observations on the second report under ICCPR published in March 2006 was not related to the review of the human rights protection mechanisms; and</li> <li>- the Administration's undertaking to provide to the HA Panel the report of the HKSAR Government to be submitted to UN under ICCPR regarding the follow-up of the recommendations once the report was submitted by the Central People's Government to UN and published.</li> </ul>	<p><b>Admin to provide the report (see para. 5 of minutes)</b></p>
005617 - 010914	Ms Emily LAU Admin Ms LAU Pui-king	<p>Ms Emily LAU's view/suggestion as follows -</p> <ul style="list-style-type: none"> <li>- there should be a HRC to monitor and review the HKSAR Government in carrying out its obligations under various international human rights treaties;</li> <li>- the Administration should revert to LegCo as soon as possible on the outcome of the review about the Ombudsman's remit; and</li> <li>- the HA Panel should discuss the report regarding the follow-up of the recommendations made by UNHRC and all other LegCo Members should be invited to join the discussion.</li> </ul> <p>The Administration's explanation on its consultation on the report outline and practices relating to the submission of the periodic reports to UN under the international human rights treaties.</p>	<p><b>See para. 6 of minutes</b></p>

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's advice that the Administration did not have any details about the internal review by the Ombudsman on its role in human rights issues at this stage.</p> <p>Ms LAU Pui-king's reiteration of her view that human rights problems could not be solved instantly just by establishing a HRC.</p>	
010915 - 011639	Mr C Raj KUMAR	<p>Mr C Raj KUMAR's response to the views of members/the Administration -</p> <ul style="list-style-type: none"> <li>- the Paris Principles were in fact the basic standard that a national human rights commission should be aspired to meet;</li> <li>- there was an absence of an institution with a broad mandate under the existing framework to oversee all human rights issues and to review the compatibility or conformity of Hong Kong laws in respect of international human rights framework; and</li> <li>- the Subcommittee should consider whether Hong Kong should establish a HRC and, if so, what would be the institutional framework to be adopted to ensure its compliance with the Paris Principles.</li> </ul>	
011640 - 012626	Mr LAW Yuk-kai	<p>Mr LAW Yuk-kai's response to the views of members/the Administration -</p> <ul style="list-style-type: none"> <li>- the Paris Principles could ensure the effectiveness of the institutional framework for the protection of human rights;</li> <li>- it was important for the HKSAR Government to review comprehensively each of its policy areas during the reporting process as to whether the policies and measures were in compliance with its obligations under various human rights treaties and there was at present no such review mechanism; and</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li>- the Administration should also conduct an internal review on how human rights protection mechanisms could be worked effectively under the existing administrative framework.</li> </ul>	
012627 - 013405	Mr James TO	<p>Mr James TO's view that the Administration should consider whether Hong Kong should have a designated statutory body for the task of "advising governmental agencies on questions of human rights, particularly when evaluating proposed legislations from the standpoint of national and international human rights norms" as stated in page 303 of the paper on "Protecting Human Rights in Hong Kong" provided by Mr C Raj KUMAR and tabled at the meeting.</p>	
013406 - 013952	Chairman	<p>The Chairman's views/suggestion as follows -</p> <ul style="list-style-type: none"> <li>- while adopting the single and integrated commission model might have the problem of lacking a specialised body for dealing with specific area of human rights protection, cost-effectiveness should be considered;</li> <li>- the primary issue was whether the body/bodies would have adequate independence and investigatory powers;</li> <li>- the Subcommittee should focus its discussion on the following three areas at the future meetings -               <ol style="list-style-type: none"> <li>a. deficiencies in the existing institutional framework for the protection of human rights in Hong Kong;</li> <li>b. feasible options to enhance the existing institutional framework; and</li> <li>c. review the pros and cons of various options before deciding on the way forward.</li> </ol> </li> </ul>	<p><b>See para. 7 of minutes</b></p>

Time marker	Speaker	Subject(s)	Action required
013953 - 014449	Dr Fernando CHEUNG Chairman	<p>Dr Fernando CHEUNG's request for the Administration's responses to the following -</p> <ul style="list-style-type: none"> <li>- whether there was any room for improvement in the existing human rights protection mechanisms; and if so, the areas for improvements;</li> <li>- whether documents relating to the Administration's review of the need for establishing an independent HRC in Hong Kong could be released; and</li> <li>- whether the four organisations (i.e. the legal aid services, EOC, OPCPD and the Ombudsman) as mentioned in paragraph 4 of the Administration's paper [LC Paper No. CB(2)1662/06-07(01)] could be in compliance with the Paris Principles in various areas such as competence, responsibility, composition and method of operation; and if not, the reasons for that.</li> </ul>	<b>Admin to provide a response in writing (see para. 3(a), (b) &amp; (c) of minutes)</b>
014450 - 014620	Ms Emily LAU	Ms Emily LAU's expression of similar view with the Chairman and Dr Fernando CHEUNG.	
014621 - 020419	Mr LAW Yuk-kai Mr C Raj KUMAR Ms LAU Pui-king Admin Chairman	<p>Mr LAW Yuk-kai's reiteration of view, highlighting the effectiveness factors of a HRC e.g. independence and pluralism of membership.</p> <p>Mr C Raj KUMAR's view that the HKSAR Government should take a leading role in the protection of human rights in the Asia Pacific Region.</p> <p>Ms LAU Pui-king's expression of agreement with the Chairman's suggestion on the focus of the discussion.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's response as follows -</p> <ul style="list-style-type: none"> <li>- explanation of the Administration's policy and principle in appointing members to advisory and statutory bodies and appointment of three new members into EOC who were of diverse backgrounds;</li> <li>- reiteration that the Administration respected the Paris Principles, but it would not implement the recommendations made by UNHRC without regard to the actual situation of the territory;</li> <li>- due consideration should also be given to the outcome of the review of the Ombudsman's remit which was still underway; and</li> <li>- there were various mechanisms to achieve the same purpose of setting up a HRC and a policy review would be taken where appropriate and necessary e.g. the review on the Personal Data (Privacy) Ordinance by PDPC.</li> </ul> <p>The Chairman's reiteration of his earlier suggestion.</p>	
020420 - 021058	Dr Fernando CHEUNG Chairman Admin Ms Emily LAU	<p>Dr Fernando CHEUNG's suggestion that the Subcommittee should focus its discussion on whether the legal aid services, EOC, OPCPD and the Ombudsman were in compliance with the Paris Principles; and reiteration of his earlier request for the Administration's written response.</p> <p>Ms Emily LAU's suggestion that members should inform the Clerk if they wish to add any additional issues for the Administration's response.</p>	<b>See para. 4 of minutes</b>

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration's explanation that it had nothing to add. Its reiteration that the Administration would need to take into account the actual situation in Hong Kong in deciding whether the Paris Principles should be applied in Hong Kong.</p> <p>The Administration's undertaking to provide a response to the issues raised by members at the meeting.</p> <p>Date of next meeting</p>	<p><b>Admin to provide a response in writing (see para. 3(a), (b) &amp; (c) of minutes)</b></p> <p><b>Clerk to issue invitation to Admin and the academics/ deputation (see para. 8 &amp; 9 of minutes)</b></p>

Council Business Division 2  
Legislative Council Secretariat  
20 June 2007