

立法會
Legislative Council

LC Paper No. CB(2)273/13-14
(These minutes have been seen
by the Administration)

Ref : CB2/BC/5/12

**Bills Committee on
Child Abduction Legislation (Miscellaneous Amendments) Bill 2013**

**Minutes of meeting
held on Thursday, 24 October 2013, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Dennis KWOK (Chairman)
Hon TAM Yiu-chung, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon WONG Yuk-man
Dr Hon Fernando CHEUNG Chiu-hung

Members absent : Hon Albert HO Chun-yan
Hon Cyd HO Sau-lan
Hon Paul TSE Wai-chun, JP

Public Officers attending : Item II

Ms Wendy LEUNG
Principal Assistant Secretary for
Labour and Welfare (Welfare) 1

Ms Veronica TSE
Assistant Secretary for Labour and Welfare
(Welfare) 1A

Ms Mary HO
Assistant Law Officer (Advisory)
Department of Justice

Ms Susana SIT
Deputy Principal Government Counsel
(Mutual Legal Assistance) 2
Department of Justice

Ms Shandy LIU
Senior Assistant Law Draftsman
Department of Justice

Mr FUNG Man-chung
Assistant Director of Social Welfare
(Family & Child Welfare)

Ms Annisa MA
Chief Social Work Officer (Domestic Violence)
Social Welfare Department

Ms Betty PANG
Acting Chief Superintendent
(Crime Support Group) (Crime Wing)
Hong Kong Police Force

Mr Gareth Williams
Superintendent (Crime Support Group) &
(Child Protection Policy Unit) (Crime Wing)
Hong Kong Police Force

Mr Ellis CHAN
Assistant Principal Immigration Officer (Control)
Immigration Department

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Mr Raymond LAM
Senior Council Secretary (2) 7

Ms Kiwi NG
Legislative Assistant (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Election of Chairman

Mr Dennis KWOK was elected Chairman of the Bills Committee.

II. Meeting with the Administration

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

3. Members requested the Administration -

- (a) to provide a written response to the issues raised in the letter dated 5 September 2013 from the Assistant Legal Adviser to the Administration;
- (b) to advise on the support and assistance available to a child who had been abducted to the Mainland, Taiwan or any jurisdiction which was not a contracting state to the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25 October 1980;
- (c) to provide information on the status and implementation in the Mainland and Taiwan of court orders issued in Hong Kong in relation to the Child Abduction and Custody Ordinance (Cap. 512);
- (d) to explain how law enforcement agencies would determine whether a child who was leaving Hong Kong alone was being abducted within the meaning of the Bill or not; and
- (e) to consider spelling out expressly in the Bill the definition of a child, including whether it included a child born in wedlock, a child born out of wedlock, an adopted child and whether it covered a person under the age of 16 or 18.

Action

4. Members agreed to invite public views on the Bill by posting a notice on the Legislative Council website and issuing invitation letters to all District Councils. Members also agreed to receive the views of the public at the next meeting.

III. Dates of subsequent meetings

5. Members agreed that the Clerk would schedule the next two meetings in consultation with the Chairman.

(Post-meeting note: With the concurrence of the Chairman, a meeting was scheduled for 6 December 2013 at 10:45 am to receive the views of the public on the Bill and a meeting was scheduled for 17 December 2013 at 10:45 am to continue discussion with the Administration.)

6. There being no other business, the meeting ended at 5:36 pm.

Council Business Division 2
Legislative Council Secretariat
12 November 2013

**Proceedings of meeting of the Bills Committee on
Child Abduction Legislation (Miscellaneous Amendments) Bill 2013
held on Thursday, 24 October 2013, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000446	Mr TAM Yiu-chung Mr WONG Yuk-man Mr Dennis KWOK	Election of Chairman	
000447 - 000605	Chairman	Opening remarks	
000606 - 001159	Admin	Briefing by the Administration on the Child Abduction Legislation (Miscellaneous Amendments) Bill 2013 ("the Bill")	
001200 - 001616	Chairman ALA Admin	Briefing by ALA on his letter dated 5 September 2013 to the Administration. The Administration was requested to provide a response to the issues raised in the letter dated 5 September 2013 from ALA.	Admin
001617 - 002128	Chairman Mr TAM Yiu-chung Admin	Mr TAM Yiu-chung's question on whether the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25 October 1980 ("the Convention") was applicable to the Mainland, Hong Kong and Taiwan. The Administration's response that the Mainland was not a contracting state to the Convention and that the object of the Bill was to better support the operation of the Convention in Hong Kong and prevent the abduction of a child from Hong Kong.	
002129 - 003945	Dr Fernando CHEUNG Mr WONG Yuk-man Admin Mr Ronny TONG	Dr Fernando CHEUNG's concerns and the Administration's response regarding - (a) the support and assistance available to a child who had been abducted from Hong Kong to another jurisdiction; and (b) whether the future enactment of legislation on joint parental responsibility as referred to in the Law Reform Commission ("LRC")	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>Report on Child Custody and Access would have any impact on the legislative proposal in the Bill.</p> <p>The Administration's response that -</p> <p>(a) for a child who had been abducted to a jurisdiction which was a contracting state to the Convention, the parent who had custody could apply to the Central Authority in Hong Kong, which was the Department of Justice, to secure the prompt return of the child in accordance with the mechanism under the Convention; and</p> <p>(b) the future enactment of legislation on joint parental responsibility should not have any substantial impact on the legislative proposal in the Bill.</p> <p>Mr WONG Yuk-man's concern regarding -</p> <p>(a) the need for the Administration to provide before clause-by-clause examination of the Bill its response to the issues raised in the letter dated 5 September 2013 from ALA to the Administration;</p> <p>(b) whether the Mainland was a contracting state to the Convention; and</p> <p>(c) the support and assistance available to a child who had been abducted to Taiwan.</p> <p>The Administration's response that -</p> <p>(a) it would provide a response to the issues raised in the letter dated 5 September 2013 from ALA; and</p> <p>(b) the Mainland was not a contracting state to the Convention.</p> <p>The Administration was requested to advise on the support and assistance available to a child who had been abducted to the Mainland, Taiwan and any jurisdiction which was not a contracting state to the Convention.</p>	<p>Admin</p>

Time marker	Speaker(s)	Subject(s)	Action Required
003946 - 004350	Mr TAM Yiu-chung Admin Mr WONG Yuk-man	<p>Mr TAM Yiu-chung's question and the Administration's response regarding the adoption of provisions along the lines of section 2(3) and (6) of the Child (Scotland) Act 1995 in the proposed section 15(3) and (4) of the Child Abduction and Custody Ordinance (Cap. 512).</p> <p>Mr TAM Yiu-chung's question regarding the scope of "any child of the family" referred to in paragraph 6(a)(iii) of the Legislative Council Brief and the Administration's response that it could include any child born in or out of wedlock.</p>	
004351 - 005434	Mr Ronny TONG Admin Mr WONG Yuk-man Chairman	<p>Mr Ronny TONG's concern and the Administration's response regarding -</p> <p>(a) the need for a definition of "child" in the Bill; and</p> <p>(b) the status and implementation in the Mainland and Taiwan of court orders issued in Hong Kong in relation to the Bill.</p> <p>Mr WONG Yuk-man's view regarding the relationship between the Mainland and Taiwan.</p> <p>The Administration was requested -</p> <p>(a) to consider spelling out expressly in the Bill the definition of a child, including whether it included a child born in wedlock, a child born out of wedlock, an adopted child and whether it covered a person under the age of 16 or 18; and</p> <p>(b) to provide information on the status and implementation in the Mainland and Taiwan of court orders issued in Hong Kong in relation to the Bill.</p>	Admin
005435 - 005834	Dr Fernando CHEUNG Chairman Admin	Dr Fernando CHEUNG's concern regarding a time gap of 11 years between the release of LRC Report on International Parental Child Abduction ("the Report") in 2002 and the introduction of the Bill in 2013.	

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		The Administration's response that LRC had released three reports relating to guardianship and custody of children, including the Report, between 2002 and 2005. After the Administration had completed study of the reports in 2009, it had been working expeditiously on the recommendations in the reports, including the introduction of the Guardianship of Minors (Amendment) Bill 2011 and the Bill.	
005835 - 010631	Chairman Admin Mr WONG Yuk-man Mr Ronny TONG	Members' concern and the Administration's response regarding how law enforcement agencies would determine whether a child who was leaving Hong Kong alone was being abducted within the meaning of the Bill. The Administration was requested to explain how law enforcement agencies would determine whether a child who was leaving Hong Kong alone was being abducted within the meaning of the Bill or not.	Admin
010632 - 010702	Chairman	Invitation of public views on the Bill. Whether there was a need to receive the views of the public on the Bill at a meeting. Scheduling of subsequent meetings.	