

**THE COMMISSION OF INQUIRY ON  
ALLEGATIONS RELATING TO  
THE HONG KONG INSTITUTE OF EDUCATION**

**CLOSING SUBMISSIONS FOR  
PROFESSOR ARTHUR LI AND MRS FANNY LAW**

**EXECUTIVE SUMMARY**

1. **Chapter 1: *This Inquiry – The Cause***

- (1) Profs Luk, Moore and Louisa Lam decided to re-start negotiations for a very tight federal arrangement with the CUHK in October/November 2006, with the full knowledge and agreement of Prof Morris.
- (2) One of the purposes of such discussions was to ease the reappointment process for Prof Morris. Thus, although Prof Morris has repeatedly claimed that he did not propose a federation model in order to secure his own reappointment, this is untrue. The federation negotiations were re-started very much with this aim in mind.
- (3) So was the email by the 18 members of the Academic Board to the staff and students on 1.12.06. This email had the effect of fuelling the rumours, already rampant at the time, that the President's reappointment was linked up with the issue of merger, causing widespread panic among the staff, particularly those whose contracts were up for renewal in 2007.
- (4) The senior management's strategy of pursuing federation model in order to secure Prof Morris' reappointment failed when the CUHK backed out and the students accused Prof Morris of "selling out", Prof Morris and Prof Luk accused Prof Li of undermining the President's reappointment prospects through merger pressure applied through Dr Thomas Leung, allegedly as Prof Li's "agent".

- (5) Such accusation did not alter the outcome of the Council's decision on 25.1.07, which was to reject the motion for Prof Morris' reappointment.
- (6) The above provides the background, and motive on the part of Prof Luk, in writing his 10,000-word letter in which, at the very tail end, he pointed the finger directly at Prof Li with the now famous words "I'll remember. You will pay!" This letter in turn has caused the present Inquiry to be established with effect from 15.2.07.

## 2. **Chapter 2: *The Allegations – The Proper Approach***

- (1) The allegations against Prof Li and Mrs Law are serious, and the main issue in the Inquiry, namely, whether there has been improper interference with the academic freedom or the institutional autonomy of the HKIEd, is likewise serious and important.
- (2) This calls for the application of what Ma CJHC called a "stricter standard of proof" for facts going to the establishment of the three allegations.
- (3) This is a flexible concept, the rule being that the standard must be commensurate with the gravity of the charge.
- (4) The Commission should only find the three allegations proved if the **evidence is so strong**, and **its quality so good**, that the Commission is satisfied that the **serious conduct** alleged against Prof Li and Mrs Law have indeed occurred by reference to the **stricter** standard of proof.

## 3. **Chapter 3: *1<sup>st</sup> Allegation – 21 January 2004***

- (1) If one traces the life history of the 1<sup>st</sup> Allegation, tracking its various mutations in time, it unwinds itself and dissolves into a "non-allegation".

- (2) Prof Morris' evidence-in-chief marked a significant shift from both Prof Luk's version in the form of the 1<sup>st</sup> Allegation and Prof Morris' own witness statement on this issue:-
- (a) It referred to the "decline in student numbers" as a fact as something to be reflected in the Start Letter, not something that would happen if Prof Morris did not take the initiative to propose a CUHK merger. The calculated use of the word "otherwise" in the 10,000 word letter was simply an embellishment on the part of Prof Luk which is wholly unjustified, and highly defamatory.
  - (b) The so-called "anti" HKIEd feeling was no longer linked to Mrs Law wanting the Institute "squeezed" as alleged in Prof Morris' witness statement.
  - (c) In short, two mutations occurred:-
    - (i) Failure to initiate merger was no longer a cause of cuts in student numbers – the 1<sup>st</sup> de-linking; and
    - (ii) The "anti" HKIEd feeling was no longer a cause of the 'squeezing' of the Institute (whatever that means) – the 2<sup>nd</sup> de-linking.
  - (d) What was now alleged is that Prof Li offered to help as a friend if Prof Morris was willing to merge with CUHK. However, the reference to doing something "radical" was dropped altogether, being substituted by nothing less than a "merger".
  - (e) Perhaps most significantly, Prof Morris conceded that Mrs Law was not expressly mentioned. It was his own interpretation that Prof Li's reference to "other people in EMB being responsible for" the "situation" (whatever that means) was a reference to Mrs Law *only* "by implication".

- (3) In assessing Prof Morris' evidence, the Commission will bear in mind the principle that, in approaching serious allegations of this nature, the consideration of the **strength** and **quality** of the evidence is paramount in determining whether the requisite standard of proof is satisfied.
- (4) The **weakness** and **poor quality** of the evidence-in-chief adduced in connection with the 1<sup>st</sup> Allegation, particularly in the light of the mutations occurring within such a short span of time, can hardly give this Commission the confidence that anything remotely close to the 1<sup>st</sup> Allegation has been established.
- (5) Prof Morris' evidence-in-chief continued to shift under cross-examination, when he testified that Prof Li said to him: "What's coming to you in the Start letter is very bad news. I want to try and help you. I'm your best friend. If you want to be viable then the only way to do it is merge".
- (6) Stripped of his theories, hindsight and interpretations, Prof Morris was really saying that the 1<sup>st</sup> Allegation in the way it was framed by Prof Luk in the 10,000 word letter was simply not what he (Prof Morris) heard in his telephone conversation. What he heard was that the decline in student numbers was going to come in any event and that, in order to survive or cope with the difficulties, Prof Morris had to do something "radical", including the consideration of a merger.
- (7) This is consistent with Prof Li's evidence on the phone call.
- (8) The circumstances leading up to that conversation put it beyond doubt that, when Prof Li made that call on 21.1.04, threatening the HKIEd was the last thing that could have been on his mind.
- (9) Prof Luk's motive in framing the 1<sup>st</sup> Allegation in the way he did is plain. He used it to show that the phone call of 21.1.04 was the starting point of improper pressure being exerted by Prof Li on Prof Morris to pursue a *full* merger. Ultimately, his aim was to deploy his various Allegations (including the 1<sup>st</sup> Allegation) to target Prof Li as someone who is to blame for Prof Morris' loss of the bid for

reappointment and the other complaints set out in his 10,000 word letter.

4. **Chapter 4: *The 2<sup>nd</sup> Allegation – 30 October 2002***

- (1) This episode is analyzed in some detail because it illustrates the **quality** of evidence which Prof Morris and Prof Luk are presenting to this Commission to convince it that there is substance to this allegation.
- (2) The **quality** of their evidence may be summarized by the following propositions:-
  - (a) Only Prof Morris had first-hand information about the 2<sup>nd</sup> Allegations, yet he has admitted having a poor memory of dates and events. He is also highly sensitive and is prone to making generalized allegations based on his own interpretations rather than on facts.
  - (b) Rather than recollecting the actual telephone conversation between himself and Mrs Law, he sought to re-construct it by piecing it together from the available documents.
  - (c) He was careless in doing this exercise and was mistaken that Dr Lai had a substantial involvement in the Small Class Teaching seminar, as he had assumed that Dr Lai had featured prominently in the Sing Tao article.
  - (d) When he became aware of this mistake, he went to Prof Luk to ask him to find another connection, even though he knew that when giving evidence in court he should not be discussing his evidence with anyone.
  - (e) Prof Luk then told him that Dr Lai was distributing pamphlets or fliers during the seminar to promote a future event in small class teaching. This, however, is untrue, since Dr Lai said in evidence that he was not physically distributing the fliers himself.

- (f) Prof Luk was apparently not satisfied with this pamphlet-distribution theory, so when he gave evidence, he came up with a new connection, namely, that Dr Lai was a collaborator and co-organizer of the seminar. At first, he alleged that Dr Lai had told him of this when he asked Dr Lai about his involvement. This of course is untrue, since the only involvement of Dr Lai, according to his evidence, was that he supervised the making of the announcement.
  - (g) Prof Luk later changed his evidence by saying that he had assumed Dr Lai to be a collaborator from reading the preface of a book given to him during his induction period. This, again, is untrue since neither of the books co-edited by Dr Lai and Ip Kin-yuen says that Dr Lai was a co-organizer of the October 2002 seminar.
  - (h) In any event, Prof Luk's collaborator theory was an after-thought, as he did not tell Prof Morris of this even when the latter came to him seeking help to find a connection between Dr Lai and the seminar in the midst of him giving evidence in court.
- (3) Looking at the evidence in its entirety, Prof Morris' allegation that Mrs Law had asked him to "fire" Ip and Dr Lai in the telephone conversation on 30.10.02 is full of flaws.
- (4) In particular, given that Dr Lai expressed no views whatsoever at the seminar, and Mrs Law was unaware of what views had been expressed by Ip, Prof Morris could not have said (as he alleged in evidence-in-chief) words to this effect: "Basically I suggested that if she didn't agree with their views she should contact them directly". Mrs Law is perfectly justified in calling this statement a "fabrication".
- (5) While it is true that when a witness lies on one matter, it does not necessarily mean that he cannot be believed on other matters, what we have seen is fabrication of evidence in a central issue in this Inquiry, namely, credibility of the allegation that Mrs Law had asked him to "fire" HKIED's staff. The Commission must, in the present circumstances, be extremely cautious towards the evidence of Profs Morris

and Luk on this same issue in connection with the other Particulars of the 2<sup>nd</sup> Allegation.

5. **Chapter 5: 2<sup>nd</sup> Allegation – 19 November 2004**

- (1) Profs Morris and Luk, in furnishing the Particulars, named four persons. Even though Dr Wong clearly does not fit within the terms of the 2<sup>nd</sup> Allegation, his name was put forward as one of the Particulars. They were plainly eager to make good the reference to four staff members mentioned both in Prof Luk's RTHK interview.
- (2) In his evidence Prof Morris testified that he had an "unmistakable or distinctive impression" that Mrs Law was encouraging him to "sack" Dr Wong.
- (3) However, the weaknesses of Prof Morris' case were fully exposed in cross-examination and he conceded that there was no explicit reference to "sacking", that he had "added" his own "interpretation" and that it is "possible" that this interpretation was wrong.
- (4) Prof Luk, in his evidence, then came up for the first time with the "speculation" that there was a possible confusion between the name of Wong Ping-man and that of Wong Ping-ho, saying that Prof Morris could not himself have confused the two. By implication, if there was a confusion, it would have been confusion on the part of Mrs Law.
- (5) The quality of evidence on this episode is such that the Commission cannot possibly be satisfied on even the normal civil standard, let alone a "stricter" standard of proof, that Mrs Law had asked for Dr Wong to be "sacked".
- (6) This episode, however, is significant in further demonstrating (in addition to the 30.10.02 episode) that:-
  - (a) Prof Morris is extremely biased towards Mrs Law when it comes to his "interpretation" of conversations with Mrs Law; and

- (b) Prof Luk is eager to patch up the less than solid evidence of Prof Morris by embellishing yet again his own evidence when he introduced, without any foundation whatsoever, the suggestion that Mrs Law might possibly have confused the names of Wong Ping-man and Wong Ping-ho in support of what he knew was a serious allegation against Mrs Law.

6. **Chapter 6: 2<sup>nd</sup> Allegation – November 2004**

- (1) Mrs Law has given clear evidence that she had, on one occasion, spoken to Prof Morris about staff's articles and asked him if he could do anything. After Prof Morris indicated that he could not, and that Mrs Law should contact the writer directly, Mrs Law did not repeat such request in the future.
- (2) Prof Morris has taken the latter statement that Mrs Law should contact the writer directly and "transplanted" it onto the telephone conversation of 30.10.02, where such statement did not fit.
- (3) Besides the problem of "transplantation", there are many reasons why Prof Morris' version of his conversation about Prof Cheng is not credible and the evidence of Mrs Law is to be preferred:-
  - (a) His evidence is inconsistent with that of Prof Luk on whether Mrs Law explicitly referred to the articles published by Prof Cheng in November 2004 as being the subject matter of her conversation with Prof Morris.
  - (b) It is highly implausible that Mrs Law would have persisted with any request to dismiss staff if, as alleged by Prof Morris, he had previously, and repeatedly told her that he would not do anything about it and, indeed, nothing was in fact done. This is particularly so, given Prof Morris' evidence that his relationship with Mrs Law was a very poor one.



- (c) Mrs Law was aware that, in disciplinary proceedings, there must be a proper charge and would have expected the procedure for removing an academic staff person in HKIEd to follow the same due process. She knew that writing critical articles was not a proper ground for dismissing the staff in question and would not result in any dismissal of staff.
- (d) The timing of the telephone call according to Prof Morris (November 2004) is highly uncertain and it is unlikely, given his poor memory of dates and events, that Prof Morris would have independent recollection of this. His evidence is inconsistent with both the evidence of Mrs Law and that of Prof Grossman.
- (e) There was nothing unusual, or wrong, for Mrs Law to adopt the same position as that of Prof Morris regarding articles which contained inaccurate information, or materials which was not evidence-based, or which portrayed a very negative image of the teaching profession, namely: “we should make every effort to ensure that the messages we convey are positive and reinforce the vital role of teachers in the development of Hong Kong”.
- (f) Prof Cheng’s views expressed in his articles in November/December 2004 constituted part of the 334 consultation. Indeed, all the submissions (including Prof Cheng’s) were processed by the EMB and the results were set out in a large table containing both the pros and cons of the 334 reform. It is unlikely that, given this context, Mrs Law would have responded to criticisms of the Prof Cheng by singling him out and asking for his dismissal.
- (g) Where there is a conflict between the evidence of Prof Morris and Mrs Law, the Commission will take into account the other episodes (relating to Dr Lai, Ip Kin-yuen and Dr Wong) where Profs Morris and Luk have embellished or even fabricated evidence to booster their case regarding the 2<sup>nd</sup> Allegation.

7. **Chapter 7: 2<sup>nd</sup> Allegation – 21 April 2005**

- (1) Both the UGC (Keeson Lee) and the EMB (Mrs Law) had an interest in knowing the number of applicants for the redundancy scheme so that the Government could prepare the funding for the pension to be paid to the eligible ex-civil service staff and the matter was expected to have to be dealt with on an urgent basis.
- (2) Mrs Law called Prof Morris on 21.4.05 for such purpose and not in order to “argue” that Ip Kin-yuen or Prof Cheng Yin-cheong should be included in the VDS.
- (3) Prof Morris failed to mention the true purpose of the call by Mrs Law on 21.5.05 in his evidence on this matter.
- (4) It is highly unlikely that Mrs Law would have “opined that [Ip and Prof Cheng] should be” on the VDS list or “argued strongly that they should be” since:-
  - (a) Mrs Law was aware that this was a voluntary scheme;
  - (b) Mrs Law had read the scheme proposal and knew that at least Mr Ip was not eligible, as she believed (rightly) that he was on contract terms with the HKIED; and
  - (c) Mrs Law also knew that the deadline for the VDS had expired and that this was “a very firm deadline, which is 18<sup>th</sup> April 2005”.
- (5) Prof Morris’ evidence is inconsistent with the evidence given by Prof Luk on this incident.
- (6) According to Prof Morris’ evidence, Mrs Law would have called him up several times requesting for staff to be dismissed and Prof Morris had repeatedly turned her down and did nothing in response to the alleged requests. Mrs Law captured the situation succinctly when she said: “I would be insane to really continuously ask for dismissal of staff again and then made the same request and on an occasion which was clearly impossible”.

- (7) The Commission is entitled and, indeed, bound to take into account the manner in which Prof Morris had given his evidence in the first two episodes under the 2<sup>nd</sup> Allegation. Taking that into account, and considering the **quality** of evidence given by him as analysed above, the Commission cannot be satisfied that Prof Morris' evidence is correct to the requisite standard of proof. Mrs Law's evidence is inherently more probable and to be preferred.

## 8. **Chapter 8: 2<sup>nd</sup> Allegation - Conclusions**

- (1) The Commission has extremely detailed evidence specifically relating to each of these episodes and will have no difficulty coming to a determination on the 2<sup>nd</sup> Allegation on the basis of such evidence.
- (2) The Magdalena Mok incident is outside the Terms of Reference of this Commission. It is also a complex matter, which requires close analysis of the context and evidence. Unless the Commission feels that the **probative value** is such that it is necessary to make a specific finding in order to come to a determination on the particularized incidents under the 2<sup>nd</sup> Allegation, it is submitted that no such finding is called for.
- (3) In the event that the Commission feels that a specific finding is called for, it is submitted that Magdalena Mok, for her own reasons, had shown an intention to mount a personal attack on Mrs Law and that her evidence must therefore be viewed with extreme caution. Moreover, she has shown herself to be a sensitive and suspicious person, as demonstrated by her evidence concerning the RGC proposal allegation.
- (4) In all the circumstances, the most likely interpretation of this incident is that, no matter what word had been used by Mrs Law ("tsau") or some other expression, Magdalena Mok has represented this in the most negative light as a personal affront to Mrs Law. However, the inherent probabilities, and the evidence is such that Mrs Law would not have used this word intending it as an "order" to Prof Mok (who she

regarded as a friend) or intending that such an “order” be carried out.

- (5) In respect of the 1<sup>st</sup> two Particulars of the 2<sup>nd</sup> Allegation, the Commission will not have difficulty in rejecting Prof Morris’ version that the episode had anything to do with the “firing” of staff. The Magdalena Mok incident will be of no assistance here.
- (6) As to the 3<sup>rd</sup> Particular, the Commission may be guided by the principle for assessing credibility set out in *Yiu Ming Investment Ltd v Peng Ru Chuan Richard*.
- (7) The Magdalena Mok incident is wholly irrelevant to this episode. That incident was very context-specific. It was about a **different person** (Ip Kin-yuen), a **different event** (the disclosure of private conversation), a **different time** (2003) and a **wholly different relationship** (Magdalena Mok being a long-time friend and, to Mrs Law’s knowledge, not being Mr Ip’s superior or having any authority over him). The incident therefore would have *no probative value* so far as the 3<sup>rd</sup> Particular of the 2<sup>nd</sup> Allegation is concerned.
- (8) On the 4<sup>th</sup> Particular, the Commission is very much aided by the context to this episode, and the documentary evidence concerning the VDS/CRS. More particularly, the Commission will have no difficulty finding that Mrs Law was in fact aware that Ip Kin-yuen was not eligible for the VDS, that it was a purely voluntary scheme and that, by the time of the phone call on 21.4.05 was made, the deadline for the VDS had passed. It is *highly unlikely* that Mrs Law would (as alleged by Prof Morris) have asked him whether Ip Kin-yuen and Cheng Yin-cheong were included in the VDS and, *even less likely*, have “argued very strongly that they should be” so included.
- (9) Here, the evidence is particularly cogent as regards Ip Kin-yuen. The Commission will have no need to resort to any finding regarding the Magdalena Mok incident which related to a completely different context, and has *no probative value* in respect of this episode.

9. **Chapter 9: 3<sup>rd</sup> Allegation – 29 June 2004**

- (1) Prof Li wanted the HKIEd to issue a statement in support of the end of the PAP. He did not ask Prof Luk to “condemn” the PTU and the sit-in surplus teachers as such a statement would be counter-productive.
- (2) The following morning at the SMM no mention was made by Prof Luk about condemning PTU/ surplus teachers. Only “hiring freeze” was discussed.
- (3) There are two possibilities in interpreting the situation surrounding the phone call of 29.6.04: either Prof Luk had already rejected Prof Li’s request for the supportive statement about ending PAP in the telephone call, or he indicated he had to come back to Prof Li, and that was why Prof Li left his direct phone number with him.
- (4) The latter is more likely having regard to a host of considerations:-
  - (a) The circumstances plainly called for formal consultation by Prof Luk, as the Acting President, before agreeing to or rejecting Prof Li’s request for a supportive statement on the ending of PAP.
  - (b) Prof Luk has failed to give any good reason for not consulting his colleagues.
  - (c) Prof Li did not demand any immediate answer, or that the statement must be issued immediately or on the next day.
  - (d) Prof Luk did consult with Katherine Ma and, contrary to his representation before LegCo and this Commission, consult with Prof Morris when he was still in the UK and “reached consensus” with him on the issue.
  - (e) Prof Luk also did consult with the senior management at the SMM the very next morning. By such time, it was unnecessary to take any further action as Dr

Francis Cheung, the Registrar, had already come out with a statement in support of the ending of PAP.

- (f) It is likely that it was Prof Luk who said that Dr Cheung had been misquoted. (He was not misquoted.) Also, it was he who told Ng Shun-wing, notwithstanding that the HKIEd had issued a similar statement on 21.5.04, that the statement in the Sing Tao Daily by Dr Cheung represented only his own personal opinion and did not represent that of the HKIEd.
  - (g) Prof Luk had a political motive to appease the PTU. First, he had an understanding with the PTU not to step on each other (as he was concerned that the PTU might come out with statements against the HKIEd, eg regarding LPAT results). Further, he wanted to lobby for the re-training fund so as to benefit financially on the part of the Institute. He therefore distorted the situation by claiming that he had already rejected Prof Li's call for a statement.
  - (h) There is no other sound reason for Prof Li giving to Prof Luk his direct phone line except for him to call back after he had consulted with his colleagues and come back with an answer whether or not to issue the statement sought.
- (5) As to the famous words "I'll remember. You will pay" allegedly said by Prof Li, it is crucial to point out that Prof Li categorically refuted such an allegation, and Prof Luk never told anyone about it until the 10,000 word letter which came out recently on 3.2.07.
- (6) When the phone call of 29.6.04 was revived by the 10,000 word letter, Prof Luk already had in mind the failed bid for the renewal of Prof Morris' appointment as president, the failed negotiations with CUHK on tight federation and, of his own failed attempt to renew his contract for another three to five years. Also in his own mind, he attributed all of these failures to one person, the SEM acting either personally or through his alleged agent, Dr Thomas Leung. There is every

motive on the part of Prof Luk to smear Prof Li what he now calls a “literary device” to end his 10,000 word letter.

10. **Chapter 10: *HKIED Funding***

- (1) Due to the financial downturn of HK economy in 2003/04, funding cuts in the 2004/05 rollover year and the 2005-08 Triennium on the education sector were inevitable though unfortunate. Be that as it may, these were across-the-board. They were not, and there has never been any evidence whatsoever to suggest that they were, targeted at HKIED.
- (2) HKIED would still have faced the funding cuts regardless of whether it was willing to merge with another institution. Furthermore, it was aware that the majority of these cuts were known to be on the way before they actually came.
- (3) EMB has in fact been entirely supportive of the HKIED’s attempts to alleviate the effect of the funding cuts by providing extra funding via other incentives and supporting its cost-saving attempts.
- (4) On the available evidence, the mere fact that there were funding cuts does not establish any necessary linkage to the “merger” issue.
- (5) In any event, it is inherently implausible that any rational SEM would adopt the technique of cutting funds in order to force a merger. If Prof Li were indeed so irrational and had wanted to use funding cuts to force a merger, he could have done so with CUHK/HKUST and/or Lingnan University, but did not.
- (6) This issue has clearly been blown entirely out of proportion by Profs Morris and Luk in order to try and lend weight to their argument that Prof Li was trying to force the HKIED to merge.

11. **Chapter 11: *Student Numbers I: All Apart from Early Childhood***

- (1) UGC generally makes decisions and determinations independently of the Government, although in doing so it

may take into account matters such as Government manpower projections. The decisions it makes that are totally independent of Government interference include allocation of the student numbers per course to each teacher education institution.

- (2) UGC has in the past reverted to Government when either it or the institutions find the Government's advice untenable. In such instances, both the Government and UGC have at various times acceded to UGC and/or the Institution's demands.
- (3) The reductions in HKIED's student numbers (leaving aside ECE, which is dealt with separately) have not been made as an attempt by EMB to disadvantage HKIED. When studied closely, the claims turn out to be unsubstantiated by the evidence, stem out of a misconceived notion of the decision-making process, the Government's and/or UGC's true position, or are simply the result of the implementation of rational Government policies of which the HKIED has long been aware.

**12. Chapter 12: *Student Numbers II: Early Childhood Education, Allegations of General Negativity***

- (1) The evidence conclusively proves that the 200-200-0 PT ECE provision was a mistake stemming from a misunderstanding between EMB staff at the working level and which was not detected at a more senior level for entirely valid reasons. The notion that there was a conspiracy or cover-up of some sort is entirely far-fetched and totally unsupported by any evidence whatsoever.
- (2) The allegation that the EMB has been very negative about the HKIED from 2003 onwards, and has been targeting it in various areas, especially vide its ECE programme, is entirely unsubstantiated:
  - (a) Events prior to the Start Letter indicate no basis for any finding or inference of negativity or bias towards the HKIED.



- (b) Prof Li and Mrs. Law's reaction to the furore over ECE places was logical, constructive, bold, and entirely in the interests of Hong Kong.
  - (c) The eventual decision to put out ECE places to tender in 2005 cannot be said to have been motivated by any negativity towards the HKIED, while the results of the 2005 and subsequent tender cannot be "blamed" on the EMB.
  - (d) It was the 2005/06 ECE review process, and not any alleged negativity towards or hatred of HKIED, that led to the May/June 2006 meetings and the request regarding PolyU's role differentiation.
- (3) There is no basis for saying that HKIED's student numbers, whether ECE or otherwise, have been unfairly targeted, let alone for the purpose of making the HKIED unviable and/or to force it to merge with another institution. On the contrary, EMB initiatives have opened up an entirely new ECE market to the HKIED.

### **13. Chapter 13-18: *Merger***

- (1) For publicly funded institutions, academic freedom and institutional autonomy are not absolute rights.
- (2) The Government and the community at large have a legitimate interest in the operation of the institutions to ensure that they are providing the highest possible standards of education in the most cost-effective manner.
- (3) There is a legitimate role for the Government in setting the framework within which the higher education sector pursues its roles and missions.
- (4) In the context of institutional integration, mergers were forced in Australia, South Africa and the UK, as government education reform initiatives, to rationalize the higher education sector.
- (5) Government-steered mergers do not infringe the academic freedom and institutional autonomy of institutions.

- (6) Further, the introduction of financial dimensions (being the most effective) is accepted as one of the tools that a government can properly use to steer a merger.
- (7) The Sutherland Report (March 2002) saw the higher education sector in Hong Kong as aspiring to forming strategic collaborations and alliances.
- (8) The HKIEd was the only institution specifically advised by the Sutherland Report to develop collaborative links in Hong Kong to broaden and deepen its subject or disciplined based teaching.
- (9) The HKIEd is further specifically tasked by the UGC to deliver degree programmes relating to secondary education “whenever possible through strategic collaboration with other local tertiary institutions”.
- (10) In June 2004, the HKIEd Council has affirmed support of institutional integration under the affiliation/federation models as defined in the Niland Report (March 2004) and authorized the further exploration of the feasibility, desirability and form of deep collaboration with other local tertiary institutions conditional upon, *inter alia*, retention of autonomy by HKIEd in academic matters, financial matters and governance and management.
- (11) Yet, HKIEd has participated in institutional integration only to the extent of the Deep Collaboration Agreement in the area of teacher education dated 9 July 2005 with CUHK, under which there is only one joint B.Ed. degree programme in English and Education with an annual intake of 40 students (20 to each institution) launched in the 2006/07 academic year.
- (12) Notwithstanding the aforesaid, Prof Li has not exerted any or any undue pressure on HKIEd to merge with another institution.
- (13) Any such alleged pressure exists only in the imagination of Prof Morris and Prof Luk.

- (14) While Professor Li would like to see strategic alliances built up between institutions, he does not believe in forcing a merger upon any institutions. He has no preconceived preference for any particular model of integration or pairing of institutions. It is a matter for the institutions concerned to work out. He never insists upon a full merger.
- (15) As SEM, Prof Li sees himself as and plays the role of a facilitator if 2 institutions express an interest in pursuing integration.
- (16) With regard to HKIEd, Prof Li merely encourages them to explore the prospect of institutional integration and, when called upon to do so, facilitates their efforts.
- (17) Unfortunately, all such efforts have been twisted and misconstrued.
- (18) Prof Li's position on the merger of HKIEd with another higher education institution is the same as that of the Chief Executive. Prof Li has no personal agenda.

#### **14. Final Chapter: *Standing Back***

- (1) In the last analysis, the SEM is the gate-keeper of the public interests. He also represents the interests of the Government which spends nearly a quarter of its budget on education and have the vast majority of school teachers on its payroll. It is both his prerogative and duty, and indeed those of Government, to have a large say in how those interests are to be pursued. In pursuing those interests, the SEM must always have, and he did have, the bigger picture in mind – the public, and our children's education, must come first, not the sectoral or vested interests of the few. No one, least of all this Commission, should be misled into thinking that those vested interests should somehow take priority, or the public interests should take second place, just because the banners of "academic freedom" or "institutional autonomy" are being waved and accusations hurled at those seen to stand in the way of the pursuit of those few.