

立法會
Legislative Council

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by the Administration)

Panel on Constitutional Affairs

**Minutes of special meeting
held on Wednesday, 19 December 2007, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** :
- Dr Hon LUI Ming-wah, SBS, JP (Chairman)
 - Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Hon Martin LEE Chu-ming, SC, JP
 - Hon CHEUNG Man-kwong
 - Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
 - Hon WONG Yung-kan, SBS, JP
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Hon Howard YOUNG, SBS, JP
 - Dr Hon YEUNG Sum, JP
 - Hon LAU Kong-wah, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, SBS, JP
 - Hon LI Fung-ying, BBS, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon WONG Kwok-hing, MH
 - Hon LEE Wing-tat
 - Hon Daniel LAM Wai-keung, SBS, JP
 - Hon Alan LEONG Kah-kit, SC
 - Hon LEUNG Kwok-hung
 - Hon CHEUNG Hok-ming, SBS, JP
 - Hon WONG Ting-kwong, BBS
 - Hon Ronny TONG Ka-wah, SC
 - Prof Hon Patrick LAU Sau-shing, SBS, JP
 - Hon KWONG Chi-kin
 - Hon Mrs Anson CHAN, GBM, JP
- Member attending** :
- Hon SIN Chung-kai, SBS, JP
 - Dr Hon Fernando CHEUNG Chiu-hung

- Members absent** : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Bernard CHAN, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Dr Hon KWOK Ka-ki
Hon CHIM Pui-chung
- Public Officers attending** : Item I
The Administration

Mr Henry TANG Ying-yen
Chief Secretary for Administration

Mr WONG Yan-lung
Secretary for Justice

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Joshua LAW Chi-kong
Permanent Secretary for Constitutional and Mainland Affairs

Ms Joyce HO Kwok-shan
Principal Assistant Secretary for Constitutional and
Mainland Affairs
- Clerk in attendance** : Mrs Percy MA
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Two Reports on constitutional development of Hong Kong

(Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2012)

Report on Public Consultation on Green Paper on Constitutional Development

Statement by the Chief Secretary for Administration on two Reports on constitutional development of Hong Kong at the Council meeting on 12 December 2007

LC Paper No. CB(2)592/07-08(04) - Press releases relating to the two Reports on constitutional development of Hong Kong issued on 12 December 2007)

The Chairman said that the purpose of the meeting was to continue discussion on the two reports on constitutional development of Hong Kong. Members noted that at the Council meeting on 12 December 2007, the Chief Secretary for Administration (CS) made a statement concerning the following reports -

- (a) Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting the Chief Executive of the Hong Kong Special Administrative Region and for forming the Legislative Council of the Hong Kong Special Administrative Region in 2012 (the CE Report); and
- (b) Report on Public Consultation on Green Paper on Constitutional Development (the Green Paper Report).

2. Dr YEUNG Sum said that at the last meeting, the Administration had clarified that the CE Report sought to reflect to the Standing Committee of the National People's Congress (NPCSC) the need to amend Annexes I and II to the Basic Law to facilitate changes to the electoral methods in 2012, and that the CE had taken the opportunity to also reflect the observation that implementing universal suffrage for the CE first by no later than 2017 would stand a better chance of being accepted by the majority in the community. He pointed out that the latter part was only a conclusion made by the CE. In the event that the NPCSC decided against the implementation of dual universal suffrage in 2012 and made no response

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to CE's conclusion about universal suffrage for the CE in 2017, public aspiration for universal suffrage would not be addressed. Dr YEUNG expressed concern that since the submission of the two Reports to the NPCSC, an opinion poll conducted by the University of Hong Kong had indicated that public confidence on the Government of the Hong Kong Special Administrative Region (HKSAR) and the Central Authorities had dropped by some 10%.

3. CS said that since direct election in geographical constituencies was introduced into the LegCo in 1991, the people of Hong Kong had learnt more and more about election and universal suffrage. In the light of the results of the public consultation on the Green Paper, the CE considered that the people of Hong Kong adopted a pragmatic attitude towards the issue of universal suffrage. The CE also noted that there was a general expectation within the community that the electoral system of the HKSAR could be further democratised and that the ultimate aim of universal suffrage could be attained as early as possible in accordance with the Basic Law. In paragraph 15 of his Report, the CE stated that implementing universal suffrage for the CE first in 2012 was the expectation of more than half of the public as reflected in the opinion polls. At the same time, implementing universal suffrage for the CE first by no later than 2017 would stand a better chance of being accepted by the majority in our community. The CE Report had faithfully reflected the views collected during public consultation.

4. Mr Howard YOUNG said that although more than half of the public supported the package of electoral proposals introduced by the Administration in 2005 for selecting the CE in 2007 and forming the LegCo in 2008 (the 2005 proposed package), it could not secure a two-thirds majority support in the LegCo. As a result, no progress was made on constitutional development. Given that there would be a change of membership in the Fourth LegCo, Mr YOUNG asked whether the Administration had the confidence to gain support from the next term LegCo to implement universal suffrage for the CE in 2017.

5. Secretary for Constitutional and Mainland Affairs (SCMA) said that the CE's conclusion about implementing universal suffrage for the CE in 2017 was supported by the following findings -

- (a) currently, less than half of the LegCo Members supported the implementation of dual universal suffrage in 2012;
- (b) half of all LegCo Members supported that universal suffrage for the CE should be implemented by no later than 2017, in 2017 or after 2017;
- (c) more than two-thirds of all District Councils (DCs) supported the implementation of universal suffrage for the CE by no later than 2017 or in 2017;

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- (d) opinion polls had indicated that about 60% of the respondents accepted the implementation of universal suffrage for the CE in 2017, if this could not be achieved in 2012; and
- (e) more than 150 000 signatures received from the public had indicated support for implementing universal suffrage for the CE by no later than 2017, in 2017 or after 2017; and among these signatures, more than 130 000 had indicated support that universal suffrage for the CE should precede that for LegCo.

SCMA said that the view on (b) above was expressed by some major political parties in the LegCo which would remain active even though there could be a change of membership in the Fourth LegCo.

6. Mr LEE Wing-tat said that the people of Hong Kong had hoped that the Government of the HKSAR did more than just “faithfully reflected” the result of the public consultation. As the head of the HKSAR, the CE should be committed to take forward democratic development. According to his rough estimate, 37 Members (comprising Members affiliated with the Liberal Party, pan-democratic Members, and some independent Members) would support the implementation of universal suffrage for the CE in 2012. In other words, the Administration would only need to persuade three more Members in order to attain a two-thirds majority support in the LegCo. He asked whether the Administration would try to do so.

7. Mr Ronny TONG said that the Liberal Party and the Democratic Alliance for the Betterment and Progress of Hong Kong had once supported the implementation of universal suffrage for the CE in 2007 and for the LegCo in 2008. He asked whether the Administration would persuade the two political parties to support the implementation of dual universal suffrage in 2012. Mr LEUNG Kwok-hung concurred with Mr TONG.

8. CS responded that the conclusion drawn by the CE was based on the submissions of LegCo Members. Their positions, presented in written form, were put forth after careful consideration, and the Administration took them seriously. SCMA added that Members affiliated with political parties and independent Members were answerable to their electors. Over the years, political parties and independent Members held different views on how universal suffrage should be attained. The Administration had hoped that different political parties and independent Members, through rational and pragmatic discussions, could forge consensus on the future constitutional development of Hong Kong. Unfortunately, their views remained diverse. Political parties who supported dual universal suffrage in 2012 had to face the political reality that they could not rally support from 40 Members to abolish all the functional constituency (FC) seats in the LegCo in 2012.

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9. Ms Audrey EU said that the CE had only requested the NPCSC, in the two Reports, to confirm whether the two electoral methods in 2012 might be amended. The CE was either ignorant of the constitutional constraint or tried to cheat his electors when he made the electoral pledge in March 2007 that he would resolve the dispute on constitutional development during his term of office. At the time, the CE had specifically pledged to put forth a final proposal with timetable, models and roadmap for universal suffrage which would meet the international standards of universal suffrage. However, his Report lacked these details.

10. Mr Jasper TSANG said that the CE Report had repeatedly mentioned about the need for setting a timetable for universal suffrage, which should refer to the electoral arrangement beyond 2012. Mr TSANG asked whether the CE had hoped that the NPCSC, having considered public aspiration and the actual situation in Hong Kong, would also respond to the question of universal suffrage timetable.

11. Mr CHEUNG Man-kwong raised the following questions -

- (a) whether the CE Report had ruled out the implementation of dual universal suffrage in 2012;
- (b) whether the Administration intended to re-introduce the 2005 proposed package as the electoral proposal for 2012;
- (c) whether the NPCSC would address the timetable for universal suffrage in its response;
- (d) the CE Report mentioned that the implementation of universal suffrage for the CE should precede that of the LegCo. What about the universal suffrage timetable for the LegCo; and
- (e) whether the Administration had assessed the impact of cheating the public time after time, i.e. ruled out the implementation of universal suffrage in 2007/2008, and now in 2012.

12. Ms Emily LAU said that many people in Hong Kong held the view that the HKSAR Government was cheating its people. Although opinion polls conducted many years ago had already reflected the public's aspiration for universal suffrage, the Administration had ignored it. In 2004, the NPCSC had unexpectedly made a decision to deny universal suffrage for Hong Kong people in 2007/08. In 2007, the CE Report had failed to support the implementation of dual universal suffrage in 2012 on the ground that it was not supported by FC Members, pro-government political parties, DC Members, etc. who enjoyed certain privileges under the current electoral system. The Administration had made use of public consultation to disappoint Hong Kong people time after time. She said that the public was tired of the tricks played by the Government and therefore had staged protests from time to time.

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13. Secretary for Justice (SJ) and CS cautioned that words such as “cheating” should not be used by members lightly. They pointed out that given that the CE had taken up his new term of office for only six months, it would be too early to judge whether his pledge was honoured. The CE still had 4.5 years to deal with issues relating to universal suffrage in his remaining term of office. They said that the CE was sincere about taking forward universal suffrage as illustrated by the following -

- (a) the CE and his Government published the Green Paper within 11 days after the commencement of the new term Government;
- (b) the power to amend the electoral methods for the CE and the LegCo rested with the NPCSC. The NPCSC would make a decision in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The CE had acted responsibly by summarising the views collected and reflecting the situation of Hong Kong to facilitate deliberations by the NPCSC; and
- (c) before the NPCSC made a decision on whether or not the electoral methods could be amended, the CE was not in a position to propose any models for universal suffrage, not to mention that no mainstream view had emerged for the electoral methods of the CE and the LegCo during consultation. The CE, however, had brought to the attention of the NPCSC his conclusion and recommendations about constitutional development in Hong Kong which would help the NPCSC to make its decision.

14. SJ further said that the CE’s conclusion and recommendations, which were conducive to taking forward constitutional development, included the following -

- (a) implementing universal suffrage for the CE first in 2012 should be taken seriously and given consideration. At the same time, implementing universal suffrage for the CE first by no later than 2017 would stand a better chance of being accepted by the majority in the community;
- (b) determining the plan for implementing universal suffrage, particularly the timetable, at an early date could help minimize internal disputes on constitutional development and would be conducive to the long term stability and development of Hong Kong; and
- (c) as the views on the models for forming the LegCo by universal suffrage and the future of FC remained diverse, setting the timetable for implementing universal suffrage for the CE and the LegCo could help promote the ultimate resolution of the issues involved.

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15. SJ and CS said that the Administration was not in a position to speculate how the NPCSC would respond to the CE Report. The NPCSC, having considered all the information in the CE Report, would make an appropriate response. CS clarified that the CE Report had not ruled out the implementation of dual universal suffrage in 2012.

16. Dr Fernando CHEUNG said that the position of the HKSAR Government was pathetic. The political reality was that the Central Authorities would not support dual universal suffrage in 2012. The HKSAR Government had therefore made use of the results of the public consultation to achieve what the Central Authorities had wanted.

17. Mrs Anson CHAN asked that if the NPCSC decided against implementing dual universal suffrage in 2012, what action would be taken by the CE to take forward universal suffrage in 2017.

18. Ir Dr Raymond HO said that he had hoped that universal suffrage for the CE could be implemented in 2012. Having considered the political reality and the diverse views in the community, his bottom line was to implement universal suffrage for the CE in 2017. He disagreed that the CE had cheated the people of Hong Kong. He could see that the CE and his Government had made effort and wasted no time to deal with the issue soon after commencement of his term of office. The issue, however, was controversial and could not be resolved easily.

19. Ir Dr Raymond HO and Mr LAU Wong-fat asked about the work plan of the CE in the remaining term of his office to take forward constitutional development.

20. CS responded that the CE Report had painted a full picture of public aspiration for universal suffrage and an early timetable to resolve the internal disputes on constitutional development for consideration by the NPCSC.

21. SCMA explained that there were five steps leading to the amendments to the two electoral methods in 2012, namely -

- (a) the CE to make a report on the actual situation of the HKSAR to the NPCSC and to seek confirmation from the NPCSC on whether Annexes I and II to the Basic Law could be amended;
- (b) the NPCSC to make a decision based on the report of the CE;
- (c) the Government of the HKSAR to introduce legislative proposals for amending the electoral methods for consideration by the LegCo;
- (d) the CE to give his consent on the legislative proposals passed by the LegCo; and

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- (e) the legislative proposals to be reported to the NPCSC for approval or for the record.

SCMA said that the Administration had taken about six months to complete the first step. After the NPCSC had made its decision, the Administration would study the options and provide opportunities for Members and the public to further discuss the electoral methods. He envisaged that the legislative process would take place in 2010 and 2011.

22. Mr Martin LEE said that since the publication of the CE Report, the CE had not met with Members or the media in person to explain his views. He asked whether and when CE would answer questions from Members and the public in an open forum.

23. CS responded that the CE, being the head of the Government, worked hand in hand with his governing team to deal with matters relating to Hong Kong. Each principal official was responsible for explaining the policy of his portfolio to the public. As far as constitutional development was concerned, the CE had already explained his views in the electoral pledge and also in the CE Report. Meanwhile, members of the governing team played their role in assisting the CE to explain to the LegCo and the public the position of the Government on the matter. He was aware that some 20 Members had requested to meet with the CE to discuss his Report and the CE was presently considering the matter.

24. Mr LEE Wing-tat said that pan-democratic Members had written a letter and requested the CE to forward it to President HU Jintao. He asked whether the CE would suggest to the Central Authorities to exchange views with pan-democratic Members on constitutional development.

25. CS said that the CE would pass the letter and relay the request of pan-democratic Members to the Central Authorities for consideration.

Special meeting proposed by members

26. As the NPCSC had put the CE Report on the agenda for its 31st meeting to be held between 23 and 29 December 2007, some members, including Mr Ronny TONG, Ms Emily LAU, Mr CHEUNG Man-kwong and Mr Martin LEE, said that the Panel should hold another special meeting with CS before 23 December 2007 to further discuss the matter. Some other members considered it not necessary as the adjournment debate to be held later that day at the Council meeting would cover the same subject.

27. Mr TAM Yiu-chung suggested and members agreed to put the matter to vote.

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28. The Chairman declared that nine members voted for and 10 members voted against holding another special meeting. The Chairman concluded that no special meeting would be held.

29. The meeting ended at 10:08 am.

Council Business Division 2
Legislative Council Secretariat
21 August 2008