

立法會
Legislative Council

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LC Paper No. CB(2)2403/08-09
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 20 April 2009, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present :

Hon TAM Yiu-chung, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Yuk-man
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Dr Hon PAN Pey-chyou
Dr Hon Samson TAM Wai-ho, JP

Member attending : Hon Paul CHAN Mo-po, MH, JP

Members absent : Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon WONG Kwok-kin, BBS

Public Officers attending : Item IV

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

Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs

Ms Joyce HO Kwok-shan
Principal Assistant Secretary for Constitutional and Mainland Affairs

Item V

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

Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer
Registration and Electoral Office

Item VI

Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Hubert LAW Hin-cheung
Principal Assistant Secretary for Constitutional and Mainland
Affairs

Mr CHOW Wing-hang
Principal Assistant Secretary for Security

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting
[LC Paper No. CB(2)1255/08-09]

The minutes of the meeting held on 15 December 2008 were confirmed.

II. Information papers issued since the last meeting

2. Members noted that the letter from the Hong Kong Journalists Association to the Chief Executive (CE) dated 6 April 2009 (LC Paper No. CB(2)1297/08-09 issued on 8 April 2009) concerning access to information had been issued since the last meeting.

III. Items for discussion at the next meeting
[LC Paper Nos. CB(2)1311/08-09(01) and (02)]

3. Secretary for Constitutional and Mainland Affairs (SCMA) proposed to discuss "Practical arrangements for voting by prisoners" at the next meeting to be held on 18 May 2009. Members agreed.

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4. At the Chairman's suggestion, members also agreed to receive views from deputations at the next meeting on "An outline of the topics in the second report on the Hong Kong Special Administrative Region under the Convention on the Rights of the Child", which had been scheduled for discussion later at the meeting.

5. Ms Emily LAU enquired about the progress of the preparation for the administrative guidelines on promotion of racial equality. SCMA said that relevant government bureaux and departments were working on the respective contents of the guidelines and should be able to revert to the Panel in mid-2009.

6. Mr Ronny TONG referred to the letter from the Hong Kong Journalists Association to CE dated 6 April 2009 and enquired when the Administration would discuss the issue of access to information with the Panel. SCMA responded that the Administration would revert to the Panel when it was in a position to do so.

(Post-meeting note: The response of the Administration to Hong Kong Journalists Association was issued to members vide LC Paper No. CB(2)1479/08-09 on 6 May 2009.)

IV. Role of Hong Kong deputies to the National Peoples' Congress and Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference: Position of the HKSAR Government

7. SCMA introduced the Administration's paper (LC Paper No. CB(2)1311/08-09(03)) which set out the Administration's position on the role of Hong Kong deputies to the National People's Congress (NPC) and Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC), having regard to media reports that the Government of the Hong Kong Special Administrative Region (HKSAR) had reached a "10-point agreement" with the Liaison Office of the Central People's Government in HKSAR (the Liaison Office) on the subject.

8. Members noted the following papers on the subject under discussion -

(a) letter dated 13 March 2009 from Ms Emily LAU (LC Paper No. CB(2)1103/08-09(01));

(b) correspondence between Ms Audrey EU and the Administration (tabled at the meeting and issued vide LC Paper No. CB(2)1389/08-09 on 22 April 2009); and

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- (c) an article written by Mr CAO Erbao, Head of Research of the Liaison Office, and published in Study Times, a newspaper of the Party School of the Chinese Communist Party, in January 2008 on the "Two governing teams" in Hong Kong (tabled at the meeting and issued vide LC Paper No. CB(2)1389/08-09 on 22 April 2009).

Role of NPC deputies and CPPCC members

9. Mr LEE Wing-tat said that according to the press report by Wen Wei Po on 11 March 2009, Mr LI Guikang, Deputy Director of the Liaison Office, had said that the HKSAR Government and the Liaison Office had reached a "10-point agreement" on expanding the functions and role of CPPCC members. Mr James TIEN, a former LegCo Member and a CPPCC member, had confirmed that a "10-point agreement" had been mentioned during the CPPCC meeting held in March 2009. On 16 March 2009, Wen Wei Po reported that Mr LI had denied that such an agreement had ever been made. Since some CPPCC members had confirmed the mentioning of such an agreement at the CPPCC meeting, the Administration was duty bound to seek elucidation from the Liaison Office.

10. Mr CHEUNG Man-kwong said that whether a "10-point agreement" had been reached had become a mystery. The Administration had explained in its paper that under the principle of "One Country, Two Systems", it was inappropriate for the HKSAR Government to obtain from the Mainland authorities the documents and notes of the meeting which CPPCC members attended in Beijing. Mr CHEUNG said that although the Administration had clarified that it had not reached any agreement with the Liaison Office, it was incumbent upon the Administration to elucidate the matter by obtaining from Mr LI Guikang a personal copy of his speech made at the CPPCC meeting.

11. SCMA responded that the HKSAR Government had not reached any agreement or consensus with the Liaison Office on the role of CPPCC members and had made that clear in its paper. Following the publication of the press report on 11 March 2009, he had contacted the Liaison Office on that day. He had also called Mr LI Guikang to enquire about the matter. Mr LI responded that he had already clarified his position to the media in Hong Kong in mid-March and he had not prepared any speaking notes for the CPPCC meeting.

12. Mr Albert HO said that some LegCo Members including the President of LegCo, Mr Jasper TSANG, and Mr CHAN Kam-lam were present at the CPPCC meeting. The Panel should call on them and other witnesses to clarify whether a "10-point agreement" or consensus had been reached at that meeting. If there was not such an agreement or consensus, he enquired whether the HKSAR Government had reached an understanding with the Liaison Office on the expansion of the role of NPC deputies and CPPCC members.

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13. The Chairman said that he was a CPPCC member whose work was not related to the HKSAR Government. To his understanding, the LegCo President had returned to Hong Kong when the CPPCC meeting was held and Mr CHAN Kam-lam did not attend that meeting while in Beijing.

14. SCMA reiterated that no agreement or consensus had been reached with the Liaison Office on expanding the role of NPC deputies and CPPCC members. CE, however, had stated in his 2005 Policy Address that NPC deputies and CPPCC members "have a better understanding of the Central authorities and the Mainland. The HKSAR Government will forge closer ties with NPC deputies and CPPCC members so that they may better play their role".

15. Mr LEE Wing-tat and Mr Ronny TONG said that Hong Kong people were concerned about formalising the participation of NPC deputies and CPPCC members in local affairs would undermine the autonomy of Hong Kong and the principle of "One Country, Two Systems". Mr TONG enquired about the role of NPC deputies and CPPCC members under the Basic Law.

16. SCMA responded that NPC deputies and CPPCC members did not have any particular role in respect of local affairs under the Basic Law, apart from the role to elect CE as members of the Election Committee. Following CE's remarks that he would attach importance to the consultative role of NPC deputies and CPPCC members on Mainland affairs relevant to Hong Kong, there was an established arrangement whereby CE would meet with NPC deputies and CPPCC members twice a year: in February before the NPC and CPPCC sessions in Beijing and in August before formulating the Policy Address. Since mid-2006, the "Website of the Discussion Forum for NPC deputies and CPPCC members", set up by the Office of CE of HKSAR (CE's Office), had been made available to provide NPC deputies and CPPCC members with a readily available and convenient platform for giving advice.

17. Ms Emily LAU wondered whether the HKSAR Government had given a wrong impression to Mr LI Guikang leading him to believe that an agreement had been reached. Noting that the "10-point agreement" published in Wen Wei Po mentioned that the HKSAR Government had agreed to provide accommodation for CPPCC members to carry out their activities, Ms LAU enquired whether any venue had ever been provided by the Administration. She also enquired about the number of NPC deputies and CPPCC members who had served on advisory and statutory bodies, and had received HKSAR Honours or Awards.

18. Ms Audrey EU referred to her correspondence with the Administration and expressed dissatisfaction that the Administration had given a general reply to the specific questions she raised in her letter dated 21 March 2009. For instance, if the Administration had provided information on the number of NPC deputies and CPPCC members serving on advisory and statutory bodies in recent years, she would be able to ascertain whether their participation in local affairs had been

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enhanced. She had followed up the matter with another letter dated 15 April 2009 and she would expect the Administration to give a full and specific reply this time. Given that the agreement published in Wen Wei Po was very specific, she suggested the Panel to meet with some CPPCC members including Mr LI Guikang to discuss the matter at a future meeting.

19. SCMA made the following responses -

- (a) the HKSAR Government had not made any arrangement to provide NPC deputies and CPPCC members with accommodation for work or organising activities;
- (b) in appointing members to advisory and statutory bodies, the major consideration of the HKSAR Government was the expertise and relevant experience of the individuals, whether or not they were NPC deputies or CPPCC members was not a factor for consideration;
- (c) in giving Honours or Awards to members of the community, the major consideration of the HKSAR Government was the contribution made by the nominees to Hong Kong, whether or not they were NPC deputies or CPPCC members was not relevant; and
- (d) he would relay to CE's Office members' concerns and requests for names and number of NPC deputies and CPPCC members serving on advisory and statutory bodies and receiving HKSAR Honours and Awards in the past five years.

(Posting-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)1992/08-09 on 23 June 2009.)

20. Mr Jeffrey LAM, who was a CPPCC member, said that he had not heard of the "10-point agreement" while attending the CPPCC meeting. He expressed concern whether the Panel should discuss an alleged agreement reported by the press. He said that in the face of the financial tsunami, Hong Kong members of CPPCC did raise more economic and financial issues than before at the CPPCC meeting with a view to appealing to the Central authorities to introduce more measures to boost the economy of Hong Kong and to assist Hong Kong people doing business on the Mainland. The liaison work undertaken by CPPCC members was positive and constructive and should not be seen as intervening in the internal affairs of Hong Kong.

21. Mr IP Kwok-him said that he had been a NPC deputy for six years and he was offended by the unfounded criticism that NPC deputies were meddling in local affairs. He said that Article 21 of the Basic Law (BL 21) provided for the election of NPC deputies by the selection method specified by NPC. The elected

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NPC deputies had to consider how they could serve Hong Kong people better in order to meet the expectation of their electors. He stressed that the role played by NPC deputies in local affairs relevant to the Mainland should not be belittled. Some NPC deputies had suggested that a mechanism should be put in place to establish closer contacts with Hong Kong residents. The Central authorities, however, was cautious about the suggestion as they apprehended that the mechanism so established might be seen allegedly as a second power centre in Hong Kong. Given the constitutional role of NPC deputies under BL 21, Mr IP enquired about the assistance provided by the HKSAR Government to enable NPC deputies to discharge their duties.

22. Ir Dr Raymond HO said that as a NPC deputy, he had all along adopted a low profile in discharging his duties in Hong Kong and did not set up any local office which might be seen as a move to establish a second power centre in Hong Kong. He stressed that NPC deputies served as a bridge between Hong Kong people and the Mainland authorities and did not play an interfering role. For instance, he had exchanged views with the Mainland counterparts on cross-border infrastructure projects with the benefits of Hong Kong people in mind. He had also examined how some Mainland policies would impact on Hong Kong residents working or doing business on the Mainland.

23. Ms Miriam LAU said that she had undergone a taxing experience as a NPC deputy in the past year. Although she did not run a local office, she had been approached by members of the public and received referrals from LegCo Members seeking assistance in resolving cross-border and investment disputes. In order to live up to the expectation of her electorate, she had handled more than 10 cases with insufficient resources and the fear of overstepping the line. She had been constantly pondering how she could do better to serve members of the public. She enquired whether the HKSAR Government would provide resources to help NPC deputies discharge their duties more effectively.

24. SCMA noted that some NPC deputies and CPPCC members had provided assistance for Hong Kong residents in distress in the Mainland. If they had contacted the HKSARG's Mainland offices when following up these cases on the Mainland, the Mainland offices would co-operate and render necessary assistance. While he recognised the practical difficulties faced by NPC deputies in discharging their duties, it was the responsibility of the Central authorities to provide the necessary resources to the 36 Hong Kong deputies to NPC. Mr Albert HO remarked that if NPC deputies wished to receive financial support from public funds, they had to be elected by the people of Hong Kong.

25. Mr LAU Kong-wah said that since Mr LI Guikang had clarified that a "10-point agreement" or consensus had not been made between the HKSAR Government and the Liaison Office, the subject was no longer an issue. He pointed out that NPC deputies and CPPCC members, being Hong Kong citizens, were entitled to participate in local affairs and to express their views freely on

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Hong Kong affairs relevant to the Mainland, in particular on activities related to cross-border co-operation. He hoped that Members would adopt an open and accommodating attitude towards the work of NPC deputies and CPPCC members. He enquired about the views and proposals put forth by NPC deputies and CPPCC members which were taken forward or implemented by the Administration.

26. SCMA responded that according to CE's Office, NPC deputies and CPPCC members had presented both macro and specific views via the "Website of the Discussion Forum", to strengthen co-operation with the Mainland. These included expediting the pilot implementation of Renminbi-denominated Trade Settlement to settle cross-border trade payments, expanding co-operation with Guangdong on infrastructure and economic development, and resolving the problem of chicken supply to Hong Kong, etc.

Article by Mr CAO Erbao

27. Mr Ronny TONG referred to the article written by Mr CAO Erbao, Head of Research of the Liaison Office, and published in Study Times, a newspaper of the Party School of the Chinese Communist Party, in January 2008 on the "Two governing teams" in Hong Kong and expressed concern that the autonomy of Hong Kong was at stake. He pointed out that the article had suggested that there were "two governing teams" in Hong Kong: one was the HKSAR Government, and the second was a team of cadres from the Central and Mainland authorities working on Hong Kong affairs since the reunification in 1997 (the second governing team). The second governing team was to exercise constitutional powers vested in the Central authorities over Hong Kong. Mr TONG considered that the article would not be published without the approval of the Central People's Government (CPG). He expressed concern that Central and Mainland authorities were interfering in the internal affairs of Hong Kong. He asked whether SCMA had approached the Liaison Office over the matter.

28. SCMA said that he had contacted the Liaison Office and was given to understand that Mr CAO wrote that article while studying at the Party School of the Chinese Communist Party. The Liaison Office had already made a formal response to the media on 18 April 2009.

29. Mr CHEUNG Man-kwong expressed concern that with the growing interaction with the Mainland, it became more difficult to separate Hong Kong affairs from Mainland affairs. He sought views from SCMA as to whether the second governing team advocated by Mr CAO contravened the spirit of the Basic Law.

30. Ms Emily LAU said that Mr CAO had mentioned in his article that the second governing team was an important governing force to realise the principle of "One Country" under the "One Country, Two Systems" and it should operate openly and lawfully in Hong Kong. Ms LAU expressed concern that with two

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governing teams in force, Hong Kong could no longer exercise a high degree of autonomy.

31. Mr Albert HO held the view that the "10-point agreement" and Mr CAO's article echoed one another. Although Mr CAO had mentioned in his article that the second governing team should not interfere in the internal affairs of HKSAR, he had also quoted the remarks made by the late Chairman DENG Xiaoping that there were destructive forces in Hong Kong and the Central authorities ought to step in to help resolve problems that Hong Kong could not overcome. Mr HO expressed concern that Mr CAO had provided in his article the basis for the Central authorities to intervene in the internal affairs of Hong Kong. As Mr CAO had also mentioned about the emergence of the second governing team which was one major change in governance after the reunification, Mr HO wondered whether the Central authorities had changed its governing policy over Hong Kong.

32. Ms Audrey EU said that Mr CAO had mentioned that the second governing team, which operated lawfully and openly in Hong Kong, consisted of central government departments which dealt with Hong Kong affairs, their branches in the city, and provincial and municipal party committees that worked closely with Hong Kong. She queried whether Mr CAO was making a new interpretation of the Basic Law given that the existence of the second governing team would depart from the principle of a high degree of autonomy enshrined in the Basic Law.

33. On CPG's policies over Hong Kong, SCMA made the following responses -
- (a) the Sino-British Joint Declaration made in 1984 stipulated the basic policies of the People's Republic of China (PRC) that would be adopted to preserve the stability and prosperity of Hong Kong. These policies which were to remain unchanged for 50 years included, among others, that HKSAR would be ruled by Hong Kong people themselves; HKSAR would enjoy a high degree of autonomy; and Hong Kong would continue to maintain and develop its economic relations with various countries and places as well as relevant international organisations. Accordingly, the Basic Law prescribing the systems to be practised in HKSAR was enacted in 1990 by NPC. The Basic Law was a national law and binding on HKSAR as well as the whole country;
 - (b) CPG had implemented the policies of "One Country, Two Systems", "Hong Kong people ruling Hong Kong" and ensured Hong Kong enjoyed a high degree of autonomy after reunification. These were unswerving policies adopted by CPG which would not be changed by an article;

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- (c) the Basic Law stipulated the division of responsibilities between HKSAR and CPG. BL 2 provided that HKSAR was to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power. BL 13 provided that CPG was responsible for the foreign affairs relating to HKSAR and the defence of HKSAR. While CPG had introduced various measures in the past 12 years to provide more room for Hong Kong's development, it had not overstepped the line;
- (d) with the growing interaction between Hong Kong and the Mainland over cross-border co-operation projects, there was a need for some CPG and Mainland departments to familiarise with Hong Kong affairs. For examples, the Ministry of Commerce was responsible for liaising with Hong Kong on matters relating to the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), the Ministry of Transport on the construction of the Hong Kong Zhuhai-Macao Bridge, and the People's Bank of China on the pilot implementation of Renminbi-denominated Trade Settlement. These departments were required to follow the rules laid down by CPG and requirements of the Basic Law in dealing with Hong Kong affairs; and
- (e) BL 22 required that no department of CPG and no province, autonomous region or municipality might interfere in such affairs which HKSAR administered on its own in accordance with the Basic Law, and that all offices set up in Hong Kong by departments of CPG or other official entities, as well as their personnel, should abide by Hong Kong laws.

34. On Mr CAO's article, SCMA made the following responses -

- (a) Mr CAO's article had stated that CPG had implemented the "One Country, Two Systems" in Hong Kong in accordance with the Basic Law since reunification. Mr CAO had repeatedly stressed in his article that the Mainland officials should not interfere in the internal affairs of Hong Kong, which fell under the jurisdiction of the HKSAR Government;
- (b) to his understanding, the major changes after the reunification included CPG taking over the responsibility for foreign affairs from the British Government, and the People's Liberation Army taking over the responsibility for the defence of Hong Kong from the British Military Garrison; and

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- (c) Mr CAO's article could not change the basic policies of CPG regarding Hong Kong which was prescribed in the Basic Law. The principles of "One Country, Two Systems" and Hong Kong people ruling Hong Kong would continue to apply.

35. Ms Audrey EU enquired whether SCMA's remark that Mr CAO's article would not change the principles laid down in Basic Law was his own interpretation or represented that of Mr CAO. Ms EU said that Mr CAO should be invited to explain his views at a Panel meeting.

36. Dr Margaret NG asked whether SCMA subscribed to the viewpoints of Mr CAO as expressed in his article. She said that Mr CAO should be invited to meet with the Panel to discuss his article. In her view, some of Mr CAO's viewpoints had stemmed from his misunderstanding of the systems in Hong Kong. For instance, Mr CAO had mentioned that the HKSAR governing team consisted of, among others, judges and judicial officers, which was obviously not the case. She said that the scope of powers conferred to Hong Kong was laid down in the Basic Law. If certain provisions in the Basic Law were regarded as ambiguous, clarification could be sought from the courts of Hong Kong. Dr NG said that she did not understand the governing authority of the second governing team and how it operated. Since Mr CAO had quoted the remarks made by the late Chairman DENG Xiaoping that the Central authorities ought to step in to help resolve problems that Hong Kong could not overcome, it would appear that the demarcation of responsibilities between HKSAR and the Central authorities was not decided by the Basic Law. In the circumstances, the more incompetent the HKSAR Government was, the greater the need to strengthen the power of the second governing team. Dr NG enquired whether the second governing team would interfere in land matters, as the Central authorities had previously done.

37. SCMA said that he was not in a position to explain Mr CAO's article. His understanding of HKSAR's autonomy came from the Basic Law, not Mr CAO's article. He shared Dr NG's view that the judiciary was independent and not part of the Executive in the HKSAR. As regards land matters, it was part of the internal affairs of HKSAR and would be handled according to the relevant laws of Hong Kong.

38. Dr Pan Pey-chyou said that the Basic Law empowered Hong Kong to exercise a high degree of autonomy. It also empowered NPC to interpret the Basic Law, not the courts of Hong Kong. At the early stage of the reunification, Mainland authorities had exercised caution in handling Hong Kong affairs, with restrictions imposed on Mainland officials visiting Hong Kong. As collaboration between the two sides increased on various fronts, there was a need to develop closer ties. It was evident that the various measures introduced by the Central authorities such as individual visits to Hong Kong and CEPA had contributed to Hong Kong's economic development. The relationship between Hong Kong and

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the Mainland had evolved from one where each was independent of the other to interdependence on each other. While the Constitutional and Mainland Affairs Bureau (CMAB) was responsible for Mainland affairs, Central and Mainland authorities also set up corresponding departments to look after Hong Kong affairs. In his view, a high degree of autonomy was not equivalent to absolute autonomy. In reality, there was a need for CPG to establish a mechanism to exercise powers other than those conferred to the HKSAR Government by the Basic Law in order to govern Hong Kong. As regards Mr CAO's article, Dr PAN said that Mr CAO had the freedom of expression and publishing an article while studying in the Party School was not unusual. He cautioned that an invitation to Mr CAO for an exchange of views with the Panel might project a wrong impression that the Panel intended to cross-examine Mr CAO or infringe his freedom of expression.

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39. The Chairman said that he had reservations about the Panel meeting with Mr CAO. He sought views from SCMA on the matter. SCMA said that the HKSAR Government was accountable to LegCo. He would relay members' views to the Liaison Office.

40. Ms Cyd HO said that although she considered it unrealistic for a city to remain unchanged for 50 years, she hoped that Hong Kong would become the pioneer to implement the "One Country, Two Systems" and uphold its principles which made Hong Kong a clean and law-abiding society. She was worried about the way Mr CAO interpreted the Basic Law and his remarks about the second governing team operating openly and lawfully in Hong Kong. She enquired whether Hong Kong would enjoy residual powers under CPG's unitary political system.

41. SCMA made the following responses -

- (a) Hong Kong had established a clean government and its rule of law had been upheld for all these years. In addition, Hong Kong had exercised a high degree of autonomy and enjoyed executive, legislative and independent judicial powers conferred by the Basic Law since reunification. Hong Kong's legal system, which adopted the common law system, was different from that of the Mainland. He envisaged that the Hong Kong legal system would continue after 2047; and
- (b) PRC was a unitary state, and HKSAR was a local administrative region under such a system. The high degree of autonomy enjoyed by HKSAR was conferred by NPC in accordance with the law. In other words, all powers exercised by HKSAR were derived by way of authorisation by the Central authorities, and there were no "residual powers" on the part of HKSAR. Nevertheless, the power conferred by the Basic Law was adequate for Hong Kong to implement the "One Country, Two Systems".

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42. Mr LAU Kong-wah said that Mr CAO had emphasised several times in his article that the second governing team should not interfere in the internal affairs of Hong Kong. With the growing interaction and integration between Hong Kong and the Mainland, in particular Guangdong, the two sides had worked closely together on immigration and law enforcement matters, as well as on economic and infrastructure development projects. It was necessary for the two parties to understand each other's systems in order to co-operate and to work out mutually beneficial solutions on different fronts. In his view, it was not harmful for Mainland authorities and their officials to acquire more understanding of the affairs of Hong Kong, provided that they abided by the principles of "One Country, Two Systems" and respected the autonomy of Hong Kong. At the same time, Hong Kong officials should also acquire a better understanding on the Mainland systems. He said that the Government should set up a dedicated team to study Mainland affairs, apart from setting up offices on the Mainland.

43. SCMA said that he supported fostering closer co-operation between Hong Kong and the Mainland which was conducive to the economic development of both sides. Such co-operation would not undermine the "One Country, Two Systems" as long as the two sides had acted in accordance with the principles laid down in the Basic Law. SCMA further said that CEPA and its supplements had laid a sound foundation for the mutual economic co-operation between Hong Kong and the Mainland. Meanwhile, Hong Kong's status as a member of the World Trade Organisation had remained unchanged. Adapting to globalisation and integrating with the Mainland were the paths pursued by Hong Kong. As regards the formation of a dedicated team of officials to handle and understand Mainland affairs, SCMA said that relevant government bureaux and departments had acquired an understanding of Mainland systems in their respective areas such as health, infrastructure, financial affairs, etc.

44. Mr Jeffrey LAM said that the HKSAR Government should set up more offices on the Mainland to acquire more understanding of Mainland policies, collect market information on various trades and to reflect the views of Hong Kong people to the Mainland. He pointed out that the Central authorities had introduced measures to provide more room to help Hong Kong's development and the HKSAR Government had also sought assistance from the Central authorities from time to time. He questioned whether these measures constituted intervention in the internal affairs of Hong Kong.

45. SCMA responded that municipalities and provinces had implemented CPG's policies over Hong Kong in respect of economic and trade matters. For instance, Supplement V to CEPA had been signed to usher in a new phase of co-operation under a package of service liberalisation and facilitation measures for early and pilot implementation in Guangdong. Municipalities and provinces which wished to do business with Hong Kong might impart their newly identified investment opportunities through Hong Kong's chambers of commerce so that

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both sides could make timely investment decisions. SCMA further said that policies introduced by the Central authorities to facilitate Hong Kong's development were beneficial to Hong Kong. The passage of the motion on "Actively implementing complementary policies for the Outline of the Plan for the Reform and Development of the Pearl River Delta" moved by Mr WONG Tin-kwong at the Council meeting on 4 March 2009 indicated that Members were supportive of the policies introduced by CPG to foster Hong Kong's development.

46. Mr Ronny TONG said that governance was a serious issue raised by Mr CAO and SCMA should not play down the matter by shifting the discussion to economic and trade matters. He pointed out that Mr CAO was talking about a new governing force, not liaison under CEPA. In his view, the second governing team consisted of central government departments which dealt with Hong Kong affairs, their branches in the city, and provincial and municipal party committees that worked closely with Hong Kong was in breach of BL 22. He said that the Administration should give assurance that the operation described by Mr CAO about the second governing team was not happening and would not happen in the future.

47. SCMA responded that he was not playing down the matter but merely speaking on facts. It was a fact that CPG had acted in accordance with the Basic Law in the past 12 years, and relevant ministries and departments had introduced policies to boost Hong Kong's economy. They were required to understand Hong Kong matters in order to formulate the relevant policies and collaborate with Hong Kong on various fronts. SCMA said that PRC was a large country with a population of 1.3 billion. CPG would not, and could not spare effort to act beyond the Basic Law and to intervene in Hong Kong's internal affairs.

48. Mr IP Kwok-him said that he had studied Mr CAO's article. In his view, Mr CAO was merely describing the situation in Hong Kong. While the first governing team referred to the HKSAR Government, the second governing team was represented by the Liaison Office which had exercised the constitutional power of CPG over Hong Kong within the remits of the Basic Law for over a decade. He could not find any clue in the article which advocated the second governing team to interfere in the administration of Hong Kong's affairs. He said that any claims about the article signifying the approval of CPG for the Liaison Office to interfere in Hong Kong's affairs should be substantiated.

49. Mr WONG Yuk-man said that HKSAR's development as of today was within his prediction. He had never believed that CPG would implement "One Country, Two Systems" in Hong Kong without meddling in Hong Kong's affairs. The huge turnout for the possession on 1 July 2003 had impacted on CPG's thinking on how to govern Hong Kong. It marked a shift of emphasis to strengthen the constitutional and political role of Mainland authorities in HKSAR. He said that Members had been unrealistic to wish to establish closer ties with the Mainland so as to benefit from its economic policies on the one hand, and to resist

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its interference in Hong Kong on the other hand. He considered the discussion today a waste of time. He pointed out that Mr CAO had made clear in the last paragraph of his article that from the viewpoint of governance, the implementation of "One Country, Two Systems" was predicated on "One Country".

50. Mr LEUNG Kwok-hung said that it was the culture of the Communist Party that the second-in-command in a department should keep his superior under surveillance and report on the latter's performance to those at the more senior level. CPG was applying the same practice to Hong Kong by operating a second governing team in Hong Kong. Mr LEUNG considered that SCMA was not familiar with the Mainland system. Under the "One Country, Two Systems", the "One Country" was run by the autocratic Communist Party which would not genuinely implement the "Two Systems". In addition, there was no check against CPG's interference in Hong Kong. He also considered it not worthwhile to discuss Mr CAO's article.

51. SCMA considered Mr LEUNG's remarks to be unfounded. CPG had complied with the Basic Law when handling Hong Kong affairs and provided more room for Hong Kong's development since reunification. SCMA said that Mr LEUNG was not familiar with the Basic Law. Hong Kong's relation with CPG was set out in BL 12. Hong Kong's autonomy was safeguarded by BL 2 and BL 16. While BL 158 provided that the power of interpretation of the Basic Law was vested in NPC, the courts of Hong Kong might interpret the Basic Law in adjudicating cases. In exercising its power over Hong Kong, CPG was provided with corresponding powers under the Constitution of PRC.

Work of the Liaison Office

52. Ms Emily LAU and Ms Cyd HO considered that it was evident that the Liaison Office had intervened in local affairs, for example in elections. Ms LAU hoped that the Administration could understand the worry of Hong Kong people about the risk of eroding Hong Kong's autonomy. She enquired whether the Administration had ever requested the Liaison Office's assistance to solicit votes from Members on certain bills, such as the Appropriation Bill 2009-2010. Ms LAU and Mr Albert HO also asked whether the Liaison Office had ever provided a list of candidates for serving on advisory and statutory bodies for the Administration's consideration.

53. SCMA responded that the elections in Hong Kong had been open, clean and fair. He understood fully that the people of Hong Kong treasured the principle of "One Country, Two Systems" and the high degree of autonomy of Hong Kong conferred by the Basic Law. He said that the Basic Law had already provided the necessary framework for the HKSAR Government to follow. Similarly, the Administration had already established a mechanism for appointing individuals to serve on advisory and statutory bodies and it did not ask for any nominations from any organisation. The Administration was also duty bound to

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solicit support from Members on legislative proposals upon their introduction. He added that the CPG had issued a notice in the year 2000 setting out the scope of work of the Liaison Office. The offices set up by CPG in HKSAR were required to comply with the Basic Law and the relevant laws of Hong Kong.

54. Mr Albert HO said that SCMA had not denied in his reply the provision of a list of candidates for serving on advisory and statutory bodies by the Liaison Office. He said that Hong Kong people were aware of the intervention of the Liaison Office in local affairs including its work to affect election results.

V. Results of the public consultation on prisoners' voting right and the proposed way forward

55. SCMA briefed members on the results of the public consultation on prisoners' voting right and proposed way forward as detailed in the Administration's paper (LC Paper No. CB(2) 1309/08-09(01)). In gist, the Administration proposed -

- (a) to remove section 31(1)(a)-(b) under the Legislative Council Ordinance (Cap. 542) (LCO) which disqualified prisoners from being registered as electors;
- (b) to remove existing disqualification provisions under section 53(5)(a)-(b) of LCO which disqualified all prisoners from voting; and
- (c) to remove existing disqualification provisions under section 53(5)(c) of LCO which disqualified persons convicted of election-related or bribery offences from voting within three years after such conviction.

The Administration also proposed the following practical voting arrangements for prisoners and remanded unconvicted persons -

- (a) prisoners should be registered to the address of their sole or main home if they continued to maintain a sole or main home outside the prison;
- (b) for prisoners who did not maintain a sole or main home, the address of their last dwelling-place in Hong Kong at which they resided before serving their sentence of imprisonment should be deemed to be their only or principal residence in Hong Kong for the purpose of voter registration;

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- (c) prisoners should vote in person either by arranging mobile polling stations to visit prisons with eligible electors or setting up polling stations inside prisons; and
- (d) the ballot papers cast by prisoners should be mixed with those cast by ordinary electors before the counting of ballot papers.

56. Members noted the following papers on the subject under discussion -

- (a) Report on Public Consultation on Prisoners' Voting Right published in April 2009; and
- (b) background brief prepared by the LegCo Secretariat (LC Paper No. CB(2)1311/08-09(04)).

57. Ms Audrey EU welcomed the Administration's decision of removing all the restrictions on prisoners' voting right. She said that voting right should be given to prisoners as a matter of principle and not because of the results of the public consultation. She enquired about the practical voting arrangements for remanded unconvicted persons in the Sha Tin District Council Tai Wai Constituency By-election held on 29 March 2009 (the DC By-election).

58. SCMA informed members that a dedicated polling station located at the Lai Chi Kok Reception Centre was set up for electors in Tai Wai Constituency who were remanded in the custody of the Correctional Services Department (CSD). Another dedicated polling station at the Tin Sum Police Station was set up for electors who were remanded or detained by law enforcement agencies (LEAs) other than CSD to cast their ballots. Under the arrangements, remanded or detained electors of the Tai Wai Constituency who had expressed the wish to vote in the DC By-election would be escorted by the LEAs concerned to the dedicated polling stations to vote. One elector had cast his vote in the Lai Chi Kok Reception Centre. The Administration had gained some experience from the DC By-election and would adopt similar practice for remanded unconvicted persons if a by-election needed to be held in the future.

59. Mr Ronny TONG said that the Administration rarely adopted an open attitude towards human rights issues but he had to commend the Administration for its decision of restoring the voting right to prisoners. He shared the view of Ms Audrey EU that the Administration should remove all the relevant restrictions on prisoners' voting right on the basis of the value of human rights enshrined in the relevant international conventions, not of quantified support shown by the results of the public consultation. Mr TONG and Mr LEUNG Kwok-hung stressed the importance of ensuring prisoners to have access to candidates' information in order for them to make an informed decision in an election. They therefore enquired about the arrangements for candidates to canvass for prisoners' votes.

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60. SCMA responded that the Administration had the responsibility to report to the Panel on the results of the public consultation in respect of the various policy options put forward in the consultation document. The Administration had made its policy decision of removing all the restrictions on prisoners' registration and voting right on the basis of the court ruling that the existing across-the-board disqualification of prisoners from registration and from voting was unconstitutional. As regards electioneering arrangement, a prisoner could choose to receive election-related materials by post through his sole or main home outside the prison, if he maintained one, or through his correspondence address in prison. CSD would make appropriate arrangements to allow prisoners to access candidates' information through the electronic and other mass media. He added that due to security reason, CSD had reservations about making special arrangements to allow candidates to canvass in person inside penal institutions.

61. Ms Emily LAU and Mr LEUNG Kwok-hung enquired about the legislative timetable for introducing the proposed amendments to the relevant electoral laws. Under Secretary for Constitutional and Mainland Affairs (USCMA) responded that taking into account the views of members, the Administration would introduce into LegCo within the 2008-2009 legislative session the Voting by Imprisoned Persons Bill, which provided for amendments to the relevant disqualification provisions under LCO, the Chief Executive Election Ordinance (Cap. 569), the District Councils Ordinance (Cap. 547) and the Village Representative Election Ordinance (Cap. 576). Following the Panel's discussion on the practical arrangements for prisoners' voting at the next meeting, the relevant amendments to the subsidiary legislation in relation to practical electoral arrangements would be introduced into LegCo. The Administration aimed to complete the legislative process before the end of October 2009.

62. Ms Emily LAU enquired about the voting arrangements for prisoners in the event a by-election had to be held before the completion of the necessary legislative process. She also enquired whether the Registration and Electoral Office (REO) foresaw any problems in making voting arrangements for prisoners.

63. SCMA responded that the Court had granted a 10-month suspension order in relation to its declaration relating to prisoners' voting right up to 31 October 2009 so that the Administration would have adequate time to complete the necessary legislative and preparation work to facilitate prisoners to vote in public elections. If a by-election had to be held before the existing legislation was amended, the existing disqualification of prisoners from voting would continue to apply. However, arrangements would be made to enable remanded unconvicted persons and detained persons to vote in the by-election while being held in custody.

64. Chief Electoral Officer of REO said that the experience of holding the DC By-election demonstrated that it was feasible to set up dedicated polling stations inside CSD's penal institutions. Although a general election was larger in scale and more complicated, REO had confidence in working out the practical voting

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arrangements with CSD. At Ms Emily LAU's request, SCMA undertook to invite representatives of CSD to attend the next Panel meeting for the relevant discussion.

VI. An outline of the topics in the second report on the Hong Kong Special Administrative Region under the Convention on the Rights of the Child

[LC Paper Nos. CB(2)1311/08-09(05) and (06)]

Briefing by the Administration

65. At the invitation of the Chairman, USCMA briefed members on the proposed outline of the topics in the second report on HKSAR (the HKSAR report) under the United Nations Convention on the Rights of the Child (CRC) as set out in the Administration's paper (LC Paper No. CB(2)1311/08-09(05)). In brief, the HKSAR report to be drafted would form part of the combined third and fourth report of PRC under CRC to which PRC was a State Party. In line with the past practice, the public would be consulted on the proposed outline of the topics for inclusion in the HKSAR report. The public consultation which started on 14 April 2009 would end on 29 May 2009. USCMA said that the Administration would carefully take into consideration views received, including views given by members at this meeting and deputations' views to be given at the next Panel meeting, in drafting the HKSAR report.

66. USCMA said that the key topics to be covered in the HKSAR report was set out in paragraph 8 of the Administration's paper. The HKSAR report would mainly consist of -

- (a) information or explanations about any significant developments since the hearing of the previous report on the HKSAR submitted by CPG in June 2003 and heard by the United Nations (UN) Committee on the Rights of the Child (the Committee) in September 2005;
- (b) updates of any developments that were ongoing since the 2005 hearing and in respect of which the Administration undertook to inform the Committee of future progress or outcomes; and
- (c) responses to concerns and recommendations raised in the Committee's Concluding Observations of the previous report (the Concluding Observations) (reproduced in Annex to the Administration's paper).

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67. Members noted the following papers on the subject under discussion -
- (a) background brief prepared by the LegCo Secretariat (LC Paper No. CB(2)1311/08-09(06));
 - (b) submission from the Society for Community Organization (LC Paper No. CB(2)1373/08-09(01)); and
 - (c) bilingual comic booklet on CRC published by CMAB.

Discussion

Setting up of a Commission on Children

68. Mr Ronny TONG expressed concern that the outline of the HKSAR report had not included the proposal to set up a Commission on Children, which was an independent body dedicated to monitor the implementation of policy in relation to the rights of the child (Article 1 of CRC defined a child as a person below the age of 18). He informed members that countries such as Australia had put in place a high-level mechanism similar to a Commission on Children to promote and protect the rights of the child. He had raised the idea with CE years ago and CE's response demonstrated his lack of understanding on the issue. CE had remarked that the rights of the child should be protected in the family context and the Administration had subsequently set up a Family Council in December 2007. Mr TONG, however, pointed out that the rights of the child was different from the welfare of a family. He urged the Administration to consider the setting up of a Commission on Children. Ms Cyd HO supported his view. She said that a family-oriented council would accord the interests of adults in priority to those of the children. In addition, many adults could not comprehend and appreciate the interests and rights of the child. Ms HO suggested that a Commission on Children should be tasked with the responsibility to promote awareness of CRC among children and especially adults.

69. Mr CHEUNG Kwok-che said that CRC covered various areas which were the responsibility of several bureaux and departments, and there was a lack of co-ordination among them. Some departments were shirking their responsibilities when the delineation of responsibilities was unclear. Given that the existing mechanism such as the Family Council had not been entirely effective in protecting children's rights, Mr CHEUNG supported the setting up of a Commission on Children.

70. Mrs Sophie LEUNG, however, said that instead of following the footsteps of other countries to establish a Commission on Children, the Administration should develop its own mechanism for the protection of children's rights to suit its needs. The Administration should foster an environment which would help children develop their potential in full. In her view, provision of quality education to children was very important.

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71. In response to members' views, USCMA stressed that the Administration attached great importance to the welfare and rights of the child as reflected in the outline of the HKSAR report. CRC also recognised family and school being the core units of society and the natural environment for the growth and well-being of children. In this connection, policies that could effectively protect families would also help protect the rights of the child. USCMA added that the Family Council was an advisory body chaired by the Chief Secretary for Administration and set up under the purview of the Secretary for Home Affairs. The Council served as a platform for deliberation of children's issues which straddled various policy areas including education, health, security, welfare, etc. As regards the setting up of a Commission on Children, the Administration considered that the existing arrangements of different bureaux formulating policies for the respective rights of the child and using various channels to consult relevant parties provided an appropriate mechanism to enable quick and flexible responses to address the needs of children. USCMA added that a bilingual comic booklet on CRC had been issued to schools and community organizations to enhance the awareness of children's rights.

Setting up of a Children's Council

72. Mr LEE Wing-tat and Ms Emily LAU urged the Administration to provide avenues for children to express their views freely in all matters affecting them and to give due weight to these views in developing policies and programmes. Mr LEE said that children had hoped that the Administration would set up a Children's Council to facilitate exchanges of views on relevant policies and programmes. They were disappointed at the Administration's indifference towards the matter. He urged the Administration to be accommodating to children who held different views from the Government. He also enquired about the support provided by the Government to the setting up of a Children's Council.

73. USCMA responded that children attached importance to their right of participation and so did the Administration. He himself had participated in children's programmes organised by non-government organisations (NGOs) and had listened to their views on various policies and programmes. In recognition of children's right of participation, the Administration collected systematically their views on issues relating to their rights through the following channels -

- (a) the Children's Council project, organised by NGOs representing children and sponsored by the Government;
- (b) children programmes and activities to promote children's rights organised by NGOs and sponsored by the Government; and

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- (c) the Children's Rights Forum attended by children representative groups such as the Child Ambassadors and representatives of the Government at which views were exchanged on topical issues such as drug abuse.

74. Mr LEE Wing-tat said that the Administration should not impose restrictions on children's participation in these forums and programmes. He was aware that some NGOs were cautious about the participation of children with dissenting voice in these forums and programmes. Mr CHEUNG Kwok-che emphasised that the Children's Rights Forum could not replace a Children's Council, the latter of which was more representative in giving views on children's rights.

Admin

75. USCMA said that there was room for enhancing children's participation in discussion forums and he would look into the matter. He would reflect members' views in the HKSAR report.

Corporal punishment and domestic violence against children

76. Ms Emily LAU enquired about the latest developments of protection for child victims of corporal punishment and domestic violence covered in paragraphs 46-48 and paragraphs 54-59 of the Concluding Observations. She said that the Administration should reflect in the HKSAR report seriousness of the problems by providing information on the number of corporal punishment and domestic violence cases handled and number of unresolved cases, etc.

77. Principal Assistant Secretary for Security (PAS(S)) advised that in line with the Government's multi-disciplinary approach, the Police worked closely with other government departments and NGOs to safeguard the best interests of children. Relevant internal guidelines and training were provided to the frontline officers. Where children were required to give evidence in legal proceedings, special arrangements would be made to ensure that they would give evidence in a friendly environment.

Admin

78. USCMA supplemented that the Domestic Violence (Amendment) Bill 2007 was enacted in 2008 which sought to enhance the protection for victims of domestic violence. SWD would monitor and review the effectiveness of the legislation in combating domestic violence and would continue to deploy resources to help needy families. The Family and Child Protective Services Units of SWD had been tasked to address the needs of abused children and their families in a holistic manner and to work closely with other professionals on a multi-disciplinary basis to prevent recurrence of domestic violence. He added that detailed information on protection of children abuse would be covered in the relevant part of the HKSAR report.

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Educational needs of ethnic minorities

79. Ms Emily LAU expressed concern about the lack of appropriate education services for children of ethnic minorities. She pointed out that these children were non-Chinese-speaking and when they were enrolled in public sector mainstream schools adopting Chinese as the medium of instruction, they were discriminated, marginalised and had difficulty in understanding and catching up with the subjects taught. Ms LAU urged the Administration to look into the educational needs of children of ethnic minorities.

80. USCMA responded that the Education Bureau had set aside resources for some 22 designated schools to meet the educational needs of children of ethnic minorities, including the provision of specially-adapted teaching materials to facilitate their learning of Chinese. The Race Discrimination Ordinance (Cap. 602), which sought to combat racial discrimination, was expected to come into full operation in mid-2009. The Equal Opportunities Commission would be responsible for the relevant enforcement work, and it would work on publicity programmes to promote racial equality, complementing efforts of the CMAB in this regard.

Family reunification

81. Ms Cyd HO expressed concern that the HKSAR report had not addressed the problem of family reunification for children who had been granted the right of abode by virtue of BL 24(2)(3). As these children were left unattended while their mothers were resided on the Mainland, it had given rise to various social problems. Ms HO considered that the Government had not done enough to expedite entry for family reunion. Mr LEUNG Kwok-hung shared the same concern.

Admin

82. USCMA responded that members' view would be reflected in the HKSAR report as appropriate. PAS(S) supplemented that the issue raised by Ms HO had been discussed by the Subcommittee to Study Issues Relating to Mainland-HKSAR Families. The Administration would take into account Ms HO's views in relevant discussions with the Subcommittee.

Children in poverty

83. Ms Cyd HO expressed concern that children from poor families did not have the resources to learn on equal footing with students of better-off families. For example, they could not afford to pay for Internet access. She considered said that children had the right to development and requested the Administration to reflect this problem in the HKSAR report.

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84. Mr LEUNG Kwok-hung expressed dissatisfaction at the absence of a poverty line to facilitate policy formulation to assist needy children. He said that about 330 000 children were living in poverty who were barely fed each day. He urged the Administration to provide 15-year free education to children across the board.

Admin

85. USCMA noted members' views and would consider including them suitably in the HKSAR report.

Reservations with respect to Articles 32(2)(b) and 37(c) of CRC

86. Referring to paragraph 8 of the Concluding Observations which stated that the Committee regretted, inter alia, that the reservations with respect to Articles 32(2)(b) and 37(c) of CRC remained in force in HKSAR, Mr LEUNG Kwok-hung enquired about the basis for the reservations. Specifically, Article 32(2)(b) of CRC was related to the provision of appropriate regulation of the hours and conditions of employment, while Article 37(c) of CRC was related to the liberty of a child under detention.

87. USCMA explained that Article 32(2)(b) of CRC had the effect of restricting the hours of employment of young people who had attained the age of 15 years in respect of work in non-industrial establishments. The reservation as to the application of the article was needed in order not to reduce the employment opportunities of young people. USCMA further explained that Article 37(c) of CRC stipulated that every child deprived of liberty should be separated from adults unless it was considered in the child's best interest not to do so. HKSAR might exercise the right not to apply Article 37(c) in order to cater for the situations where there was a lack of suitable detention facilities, or where the mixing of adults (aged 18 or above) and children was deemed to be mutually beneficial. In reality, young detainees aged 14 to 17 would be separated from adult offenders as far as practicable, especially at night.

88. In response to the request of Ms Emily LAU, USCMA said that he would coordinate the attendance of representatives of relevant bureaux for the next Panel meeting to be held on 18 May 2009 at which deputations' views would be received on the outline of topics in the HKSAR Report.

89. The meeting ended at 5:32 pm.