

立法會
Legislative Council

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LC Paper No. CB(2)60/13-14
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 20 May 2013, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP (Deputy Chairman)
Hon Emily LAU Wai-hing, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, JP

Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen

**Member
attending**

Dr Hon Fernando CHEUNG Chiu-hung

**Members
absent**

: Hon LEE Cheuk-yan
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Yuk-man
Hon MA Fung-kwok, SBS, JP
Hon SIN Chung-kai, SBS, JP

**Public Officers : Item III
attending**

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

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs (1)

Ms Anne TENG Yu-yan
Principal Assistant Secretary for Constitutional and Mainland
Affairs (2)

Item IV

Mr LAU Kong-wah
Under Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs (1)

Mr CHEUNG Doi-ching
Principal Assistant Secretary for Constitutional and Mainland
Affairs (5)

Mr Ronald CHAN Ngok-pang
Political Assistant to Secretary for Constitutional and Mainland
Affairs

Mr Godfrey KAN
Senior Assistant Solicitor General
Department of Justice

Mr Billy WOO
Principal Assistant Secretary (Security) D
Security Bureau

Mrs Millie NG
Principal Assistant Secretary (Security) E
Security Bureau

Mr Stephen YIP
Principal Assistant Secretary
Education Bureau

**Attendance by : Item IV
invitation**

Hong Kong Human Rights Monitor

Mr LAW Yuk-kai
Director

Hong Kong Unison

Miss Fermi WONG
Executive Director

Amnesty International Hong Kong

Miss Jenny NGAI
Campaigner

China Universities Alumni (Hong Kong) Association

Mr Patrick TSE
Deputy President

The Association of Experts for Modernization

Ms Elizabeth TSE WONG Siu-yin
Treasurer

The Association of Hong Kong Professionals

Mr CHIN Chi-yung
Executive Vice-Chairman

Civic Party

Ms Jennifer Anne Eagleton
Committee Member, Constitution & Governance

BigLove Alliance

Mr WONG Yiu-ming

Mr Brian LEUNG

Democratic Party

Mr TSOI Yiu-cheong
Convenor, Constitutional Group

Equal Opportunities Commission

Mr CHU Chung-man
Head, Policy & Research

Rainbow of Hong Kong

Mr Tommy JAI
Spokesperson

Rainbow Action

Mr Jimmy SHAM
Spokesperson

Transgender Group

Miss Angel TSANG Hon-wai
Spokesperson

Women Coalition of HKSAR

Miss Wai Wai
Spokesperson

Young Civics

Mr Andy YU

Mr CHAN Kwong-shik

Mr WONG Chi-kin

Mr Tony TO

Association of World Citizens Hong Kong China

Miss Mimi WONG
Director

Society for Cultural Integration

Miss Annie LI

Hong Kong Federation of Students

Mr YEUNG Ching-yin
Deputy Secretary-General

Executive Committee of the Hong Kong Shue Yan University
Students' Union

Mr NG Chung-tat
President

Student Union of the Chinese University of Hong Kong

Mr Lester SHUM
External Vice President

CUHK Human Rights Concern Group

Miss CHOW Fong-yuen
Spokesperson

Students' Union of Lingnan University

Miss Cindy NG Ka-sin
External Vice President

Students' Union of the Hong Kong Institute of Education

Mr CHAN Wai-ho
External Vice President

Students' Union of the Hong Kong Polytechnic University

Mr LAW Cheuk-yiu
External Vice President

Student Union of Hong Kong Baptist University

Mr Kinson LAM Pak-kin
External Vice President

Labour Party

Mr LAM Cho-ming

Beyond the Boundary – Know and Concern the Intersex Peoples

Ms Small LUK

Hong Kong Social Workers' General Union

Mr POK Fook-sun
Vice-President (Internal)

Miss CHEUNG Sze-wing

Yat Tung Community Network Association

Mr KWOK Chung-man

The Hong Kong Refugee Advice Centre

Ms Aleta Miller
Executive Director

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2) 3

Ms Wendy LO
Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

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I. Information papers issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1134/12-13(01) to (02) and CB(2)1061/12-13(01)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 17 June 2013 -

- (a) follow-up on Equal Opportunities Commission ("EOC")'s legislative amendment proposal related to the scope of protection against sexual harassment under the Sex Discrimination Ordinance (Cap. 480); and
- (b) briefing by the Chairperson of EOC.

3. Ms Emily LAU said that as the United Nations ("UN") Committee on the Rights of the Child would conduct a hearing on the second report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child, the Panel should hold a meeting to receive views from deputations on the report prior to the UN hearing. Deputy Secretary for Constitutional and Mainland Affairs (1) said that while the related hearing on China's combined report would be conducted some time between 16 September and 4 October 2013, the exact date was not yet confirmed. Secretary for Constitutional and Mainland Affairs ("SCMA") undertook to keep the Secretariat informed of the development. The Chairman said that as the Panel had last discussed the issue with deputations at its meeting on 18 March 2013, the Panel might consider how to follow up the proposed item later. Members agreed.

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4. Referring to his letter dated 8 April 2013 to the Chairman of the Panel on Administration of Justice and Legal Services [LC Paper No. CB(2)1061/12-13(01)], which had been referred to this Panel, Dr Kenneth CHAN asked about the Administration's plan in taking forward the relevant issues and the timetable.

5. SCMA said that The Ombudsman was conducting a direct investigation into the access to information regime in Hong Kong, and the Law Reform Commission had set up two subcommittees to embark on a comprehensive study of the relevant laws in overseas jurisdictions with a view to making recommendations. In response to the Chairman's enquiry about the timing for completion of the relevant studies, SCMA said that a report would be released by The Ombudsman upon completion of its work. SCMA undertook to revert on the timeframe for the studies by the two subcommittees.

(Post-meeting Note: The Administration provided the information on 6 June 2013 [LC Paper No. CB(2)1309/12-13(01)].)

III. Review of the number of elected seats for the fifth-term District Councils ("DCs")

[LC Paper Nos. CB(2)1130/12-13(01), CB(2)1134/12-13(03) and CB(2)1150/12-13(01)]

6. At the invitation of the Chairman, SCMA briefed members on the Administration's review of the number of elected seats for the fifth-term DCs as set out in the Administration's paper [LC Paper No. CB(2)1130/12-13(01)]. According to the Administration, having regard to the forecast of the population in Hong Kong by mid-2015 (i.e. 7 311 300), the continued application of a population quota of about 17 000 residents to one DC elected seat, the abolition of DC appointed seats from the fifth-term DCs onwards, and the increasingly important role of DCs in district administration, the total number of elected seats for the fifth-term DCs should be increased from the 412 seats for the fourth-term DCs to 431 (i.e. a net increase of 19 elected seats). The Administration proposed to increase the number of elected seats for nine DCs (i.e., Sham Shui Po, Kowloon City, Kwun Tong, Yau Tsim Mong, Tsuen Wan, Yuen Long, North, Sha Tin and Sai Kung), and to keep the number of elected seats for the remaining DCs unchanged.

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7. Members also noted the background brief prepared by the Legislative Council ("LegCo") Secretariat [LC Paper No. CB(2)1134/12-13(03)] on this subject and the submission from Yat Tung Community Network Association [LC Paper No. CB(2)1150/12-13(01)].

Discussion

Review of the number of elected seats

8. Mr IP Kwok-him expressed support for the proposed increase in the number of elected seats for the fifth-term DCs. He said that in respect of DCs where the number of elected seats calculated according to the population quota was lower than the existing number of seats, he agreed not to have their number of elected seats reduced, taking into consideration the impact of the abolition of appointed seats. Noting that the maximum population deviation in each DC constituency areas ("DCCAs") should be within $\pm 25\%$, Mr IP asked whether special consideration could be given to providing more seats for Islands DC which covered a wide area and those DC members had to spend considerable travelling time on reaching out to the local residents who were scattered in different parts of the district.

9. SCMA said that if the Electoral Affairs Commission ("EAC") considered a departure from the 25% rule necessary having regard to such factors as the preservation of local ties, community identities and physical features of the relevant areas, section 20(5) of the EAC Ordinance (Cap. 541) allowed EAC to depart from the rule. As regards DCs where there was a declining population such as Islands DC, their number of elected seats would remain unchanged under the current proposal. Any proposal for an increase in the number of elected seats for Islands DC might not be in line with the established criteria and might hardly be justified.

10. Dr Kenneth CHAN asked when the Panel would be consulted on the recommendations on the demarcation of DC constituency boundaries. SCMA said that it was the Administration's plan to arrange tabling of the subsidiary legislation at LegCo in July 2013 to amend the number of elected seats for DCs concerned. Subject to the passage of the subsidiary legislation, EAC would commence review of the DC constituency boundaries for the fifth-term DC in early 2014. EAC would take into account the latest number of elected seats for each DC in its demarcation of DCCAs for the DC election in 2015 and would conduct a public consultation exercise on its provisional recommendations.

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11. Dr Kenneth CHAN expressed concern that DCs with a small elected membership might face operational problems following the abolition of all appointed seats from the fifth-term DCs in 2016. He noted that there were suggestions to "transfer" some DCCAs to Wan Chai DC and asked whether the Administration was working in that direction. SCMA said that at his meeting with the Chairmen and Vice-chairmen of the 18 DCs held on 16 May 2013, while DC members were generally receptive to the proposed increase based on population projection, there were suggestions to "transfer" some DCCAs from Eastern DC to Wan Chai DC as the latter would have only 11 elected seats, and there were also suggestions of a merger of Wan Chai DC and Central and Western DC into one. He said that the Administration was open to different views and would listen further to the local community, DC members and LegCo Members. Nevertheless, these proposals would involve realignment of the district boundary and, if implemented, would require legislative amendments. He said that according to the past exercise on realignment of district boundary in 1993 which involved the merger of two districts (viz. Yau Tsim and Mong Kok) into one district, the concerns of local residents were mainly about the possible impact on school net for secondary school places (as school nets were defined according to the administrative district boundary) and the provision of leisure and recreational facilities managed by Leisure and Cultural Services Department. He noted that some members of Eastern DC were also concerned that the local community concerned would lose its identity and local ties. SCMA added that if the above proposals were to be pursued, a public consultation would need to be conducted to collect the views of local residents.

12. Ms Emily LAU held a strong view that DCs should be given real powers in district administration. However, the population of the existing DC constituencies was so small that DC members lacked representativeness and some DC members only put emphasis on local parochial interests. She suggested raising the population quota by merging some DCCAs into larger constituencies and returning DC members through the proportional representation system so as to make DC members answerable to electors of larger constituencies and broaden their vision. She criticized that the present system was not conducive to grooming of political talents with a broader outlook. Ms LAU called on the Administration to conduct a review of the election system for returning DC members and to take heed of the views of the public and political parties in this area. Dr Kenneth CHAN also considered that the election system of DCs should

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be reviewed and the proportional representation system should be adopted for returning DC members from larger constituencies. He noted that there were also views calling for the abolition of ex officio seats in tandem with appointed seats in DCs in one go. SCMA responded that as the existing election system for DCs had been operating effectively, there was no plan to introduce new arrangements. SCMA added that views were still diverse as to whether "single seat, single vote system" or proportional representation system should be adopted for returning DC members. The Administration would continue to listen to the views expressed by various sectors of the community.

13. Mr Ronny TONG said that the problem of DCs boiled down to two issues, i.e. DC members lacked representativeness and there were not enough resources for the operation of DCs. Mr TONG queried the basis of setting the population quota at around 17 000. Based on a 40% voter registration rate of all eligible persons in a DCCA, each DC member was only representing 6 000 to 7 000 electors. He pointed out that if there were two candidates contesting in an election, in most situations the winning candidate only won by small margins. He suggested raising the population quota, and the proportional representation system should be adopted for returning DC members so as to make elected DC members accountable to electors of larger constituencies and enhance their representativeness. Mr TONG further suggested that the disparity of elected DC membership amongst DCs should be addressed.

14. SCMA said that the Administration was open as to whether there should be realignment of district boundary. He noted that the views received so far were mainly concerned about the relatively small number of elected seats of Wan Chai DC and the Administration was open to any further proposals. He added that the existing population quota had been maintained at around 17 000 all along, and a decision should not be taken lightly to change the population quota which, if raised, might adversely affect the standard of district services provided by DC members as each of them would then have to provide services to more residents.

15. Dr LAM Tai-fai urged the Administration to expedite its work in taking forward the current proposal since it would affect the preparation work of prospective candidates who planned to participate in the next DC election. As the 2016 LegCo Election would be held some nine months after the 2015 DC Election, Dr LAM asked about the timing for consulting the LegCo on the demarcation of geographical constituencies ("GCs") in

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respect of the 2016 LegCo Election. SCMA reiterated that subject to the passage of the subsidiary legislation to amend the number of elected seats for DCs concerned, EAC would commence review of the DC constituency boundaries for the 2015 DC Election in around January 2014, and it was expected that its provisional recommendations would be ready within the first half of 2014. As regards the 2016 LegCo Election, EAC was due to submit its recommendations on the demarcation of GCs in the latter half of 2015 under the statutory timeframe.

16. Mrs Regina IP was concerned about the impact on the operation of Wan Chai DC following the abolition of appointed seats, and she supported exploring the feasibility of transferring some DCCAs from Eastern DC to Wan Chai DC. While noting some DC members' concern about residents' sense of belonging to the community, Mrs IP said that the problem should be manageable.

17. Miss CHAN Yuen-han said that Wong Tai Sin DC was very concerned about the northeastern part of the Kai Tak Development Area, which currently fell within the boundary of Kowloon City District. She said that in their view, this area should form part of Wong Tai Sin District on the grounds that this area was geographically in close proximity to Wong Tai Sin District, and that it was a natural extension to the coastline along Kai Tak River (and it was the only district without access to the coastline). SCMA noted the concerns and undertook to look into the issues raised, adding that a public consultation would need to be conducted if realignment of district boundary was involved.

18. Miss Alice MAK echoed Miss CHAN Yuen-han's view that there should be realignment of district boundary so as to meet aspirations of local communities. She recalled that by way of a legislative exercise conducted in 2006, Nob Hill which straddled Sham Shui Po District and Kwai Tsing District had been put wholly within Sham Shui Po DC. In response to Miss MAK's concern that no increase had been proposed for Kwai Tsing DC despite a projected increase in its population, SCMA advised that no change was recommended owing to rounding of figures.

Role and functions of DCs

19. Mr IP Kwok-him asked whether the Administration would consider allocating additional resources to strengthen the manpower of the secretariats of DCs so as to enhance support for the operation of DCs.

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SCMA advised that issues relating to manpower support for DC secretariats to complement the enhanced role and functions of DCs in district affairs were under the purview of the Home Affairs Bureau ("HAB"), while DC election-related matters were under the policy portfolios of the Constitutional and Mainland Affairs Bureau ("CMAB").

20. Dr Kenneth CHAN recounted difficulties in requesting the appropriate policy bureaux, be it HAB or CMAB, to follow up on issues relating to the role and functions of DCs. Dr CHAN urged the Administration to take into account the views of DC members, political parties and academics when reviewing the role and functions of DCs. Miss Alice MAK called on the Administration to take heed of members' views on enhancing the role and functions of DCs in district administration. She further pointed out that the role and functions of DCs had not been enhanced as certain existing committees under DCs had already shared the duties of managing community halls back in 1993.

21. Dr LAM Tai-fai expressed dissatisfaction that despite the commitment of the Chief Executive ("CE") during and after the CE election on enhancing the role and functions of DCs, these were only empty talks as the Administration did not have a clear plan in that direction. In his view, DCs were important platform for consultation and collection of views on district matters, enhancing the role and functions of DCs would help the Administration improve its governance and communication with people. SCMA said that CE had put forward the concept of "addressing district issues at the local level and capitalising on local opportunities" in the 2013 Policy Address, and had met with the Chairmen and Vice-chairmen of the 18 DCs on 16 May 2013 to listen to their views.

22. Miss CHAN Yuen-han urged the Administration not to lose sight of DC members' dissatisfaction with the lack of concrete measures to strengthen the role and functions of DCs. She called on the Administration to study how the role and functions of DCs could be expanded beyond advisory nature.

23. Mr Gary FAN said that as a former DC member, he considered that there was a need to enhance the role and functions of DCs and increase the size of DC constituencies for returning DC members with a wider electorate base. Mr FAN further stressed the importance of giving DCs substantive power in staffing matters, financial management, and policy making in order to enhance DC members' experience of district administration and help

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nurture political talents. In his view, after the Reunification, the streamlining of the three-tier system of representative government into a two-tier structure and the implementation of the Political Appointment System were not conducive to grooming of political talents. SCMA said that the issues raised by Mr FAN involved a major policy change regarding the role and functions of DC. He would relay members' views in this regard to HAB for consideration.

IV. Hearing of the United Nations Human Rights Committee ("UNHRC") on the Third Report of the Hong Kong Special Administrative Region ("HKSAR") in the light of the International Covenant on Civil and Political Rights ("ICCPR")
[LC Paper Nos. CB(2)1117/12-13(01) and CB(2)1134/12-13(04)]

24. The Chairman welcomed the representatives of 35 deputations attending the meeting. Members noted the updated background brief on this item prepared by the LegCo Secretariat [LC Paper CB(2)1134/12-13(04)].

Presentation of views by deputations/individuals

Hong Kong Human Rights Monitor

25. Mr LAW Yuk-kai emphasized that the recommendations of UNHRC reflected obligations imposed on the HKSAR Government under ICCPR. However, it was disappointing to note that the Administration remained of the view that the recommendations made by UN treaty monitoring bodies were of an exhortatory nature rather than legally-binding. He said this showed a lack of commitment on the part of the Administration in pursuing the recommendations.

Hong Kong Unison

[LC Paper No. CB(2)1134/12-13(05)]

26. Miss Fermi WONG briefed members on the salient points of Hong Kong Unison's submission. She stressed the importance of addressing ethnic minority students' need in learning Chinese Language in order not to undermine their opportunities of employment and higher education. She highlighted that only 0.59% of post-secondary students were ethnic minorities.

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Amnesty International Hong Kong ("AIHK")
[LC Paper No. CB (2)1179/12-13(01)]

27. Miss Jenny NGAI presented the views of AIHK as detailed in its submission. She highlighted the Government's obligation under Articles 7 and 13 of ICCPR (non-refoulement protection and refugee status determination) and called upon the Government to review its policies in the light of the Court of Final Appeal ("CFA")'s rulings in the cases of *Ubamaka v. Secretary for Security & Anor* (FACV No. 15/2011) and *C & Ors v. Director of Immigration and Secretary for Security* (FACV Nos. 18-20/2011). She called on the Administration to put in place a mechanism for handling of claims related to non-refoulement protection.

China Universities Alumni (Hong Kong) Association
[LC Paper No. CB(2)1179/12-13(02)]

28. Mr Patrick TSE presented the views of China Universities Alumni (Hong Kong) Association as detailed in its submission. He considered that racial equality was safeguarded with the enactment of the Race Discrimination Ordinance ("RDO") (Cap. 602) in July 2008. He also considered that the Police had exercised restraint and tolerance in handling public meetings and processions.

The Association of Experts for Modernization
[LC Paper No. CB(2)1150/12-13(02)]

29. Ms Elizabeth TSE WONG Siu-yin presented the views of the Association of Experts for Modernization as detailed in its submission. She considered that under the principle of "One Country, Two Systems", arrangements for implementing universal suffrage in Hong Kong required prior approval to be given by the Central Government before they were to be adopted. She expressed concern that public protest activities were held frequently in recent years, thereby causing nuisances to other road users.

The Association of Hong Kong Professionals

30. Mr CHIN Chi-yung considered that the Standing Committee of the National People's Congress of the People's Republic of China ("NPCSC") had the legitimate power to interpret the Basic Law. Moreover, the views of UNHRC appeared to have stemmed from a lack of understanding of the circumstances of Hong Kong.

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Civic Party

[LC Paper No. CB(2)1209/12-13(01)]

31. Ms Jennifer Anne Eagleton presented the views of the Civic Party as detailed in its submission. She urged the Government to implement universal and equal suffrage in line with the recommendations made by UNHRC in its concluding observations.

BigLove Alliance

32. Mr WONG Yiu-ming considered that there were general misconceptions in the community about the sexual minorities. He was pleased to note the judgment handed down in the case of *W v The Registrar of Marriages (FACV No. 4 of 2012)* and cited from it that "[r]eliance on the absence of a majority consensus as a reason for rejecting a minority's claim is inimical in principle to fundamental rights". He called on the Administration to enact legislation to protect the rights of sexual minorities.

Mr Brian LEUNG

33. Mr Brian LEUNG said he did not support the suggestion of consolidating the existing four anti-discrimination ordinances into a single ordinance. He called on the Administration to take heed of UNHRC's recommendations about enacting legislation that specifically prohibited discrimination on the ground of sexual orientation and gender identity.

Democratic Party

34. Mr TSOI Yiu-cheong called on the Administration to implement the recommendations made by UNHRC in its concluding observations. He requested the Administration to provide a detailed plan to institute universal suffrage in accordance with the international principles which would ensure the right of all persons to vote and stand for election.

Equal Opportunities Commission

[LC Paper No. CB(2)1134/12-13(06)]

35. Mr CHU Chung-man highlighted the views of EOC as detailed in its submission. These included: (a) establishing a human rights institution with a broad mandate to promote and protect human rights; (b) addressing the existing loophole in RDO which was not applicable to Government functions; (c) improving the quality of Chinese Language education for ethnic minorities and non-Chinese speaking students; (d) conducting public

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consultation on legislating against discrimination on the ground of sexual orientation as soon as possible; and (e) engaging the service users and persons in recovery in the review conducted by the Mental Health Service Review Committee so as to formulate a comprehensive mental health policy.

Rainbow of Hong Kong

36. Mr Tommy JAI gave examples of discrimination on the ground of sexual orientation and called on the Administration to take immediate action to enact legislation against discrimination on the ground of sexual orientation as recommended by UNHRC repeatedly. The Administration was also requested to provide a timetable for taking forward the legislation.

Rainbow Action

[LC Paper No. CB(2)1179/12-13(03)]

37. Mr Jimmy SHAM called on the Administration to expedite its action in repealing the legislation on criminalizing homosexual acts of gross indecency under section 118C of the Crimes Ordinance (Cap. 200) which had been ruled unconstitutional by the court. The Administration was also requested to remove disparities in terms of the legal age of consent for buggery under sections 118C and 118D and the level of penalty on related offence under section 124 of the same Ordinance.

Transgender Group

[LC Paper No. CB(2)1179/12-13(04)]

38. Miss Angel TSANG Hon-wai gave examples of the experience of six transgendered persons who had not been given access to hormone medication in the penal establishments or who had the experience of having their haircut or undergoing strip searches. The Correctional Services Department ("CSD") should be asked to provide a response to the above issues.

Women Coalition of HKSAR

39. Miss Wai Wai called on the Administration to take immediate action to follow up UNHRC's recommendation on legislating against discrimination on the ground of sexual orientation and gender identity. She said that the Administration should step up its educational efforts so as to eliminate the misconception that such legislation, if introduced, would bring about "reverse discrimination".

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Young Civics

40. Mr Andy YU expressed concern about the measures adopted by the Police in handling public meetings and public processions as well as the increase in the number of arrests and prosecutions instituted under the Public Order Ordinance (Cap. 245) ("POO"). He called on the Administration to provide clear guidelines on the application of POO.

Mr CHAN Kwong-shik

41. Mr CHAN Kwong-shik considered that the Nominating Committee as prescribed in the Basic Law was not aimed to deprive people of their right to stand for election. He also considered that Hong Kong people should fight for democracy in a peaceful and rational manner.

Mr WONG Chi-kin

42. Mr WONG Chi-kin expressed appreciation of the proposals on electing CE by universal suffrage put forward respectively by Mr Martin LEE and the Alliance for True Democracy. He hoped that parties concerned would remain open-minded and tolerant of differences in views and strive for reaching a consensus.

Mr Tony TO

43. Mr Tony TO was of the view that the method for electing CE by universal suffrage should be consistent with the principles of constitutional development as enshrined in the Basic Law. He encouraged the pan-democratic camp to submit their views to the Mainland Authority.

Association of World Citizens Hong Kong China
[LC Paper No. CB(2)1179/12-13(05)]

44. Miss Mimi WONG outlined a proposal for electing CE by universal suffrage as detailed in its submission. She also proposed that the Government should enhance the functions of EOC beyond its existing scope of work under the four anti-discrimination ordinances.

Society for Cultural Integration
[LC Paper No. CB(2)1134/12-13(05)]

45. Miss Annie LI presented the views of the Society for Cultural Integration as detailed in its submission. She called on the Administration to

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address the ethnic minority students' needs in learning Chinese Language and implement a "Chinese as a second language" curriculum for ethnic minority students. She hoped that the Administration would include some concrete proposals in this area when providing supplementary information to UNHRC.

Hong Kong Federation of Students

46. Mr YEUNG Ching-yin urged the Administration to heed the calls for election of CE by universal suffrage as the people of Hong Kong had been expecting for many years. He pointed out that a screening process would be unacceptable as it was tantamount to denying people's right to have "universal" and "equal" suffrage. Referring to a recent protest at an education institution, he expressed concerns about the measures adopted by the Police (e.g. videotaping of public demonstrations and inappropriate use of pepper spray).

Executive Committee of the Hong Kong Shue Yan University Students' Union

47. Mr NG Chung-tat called on the Administration to review POO to ensure that it was in compliance with ICCPR. He said there were many separated families between the Mainland and Hong Kong but there was a lack of support measures for these families. The Administration was requested to ensure children's right to protection under Article 24 of ICCPR. Furthermore, Mr NG considered the use of closed-circuit television system in educational establishments was privacy intrusive and called on the Administration to devise clear guidelines in this regard.

Student Union of the Chinese University of Hong Kong

48. Mr Lester SHUM urged the Administration to implement universal and equal suffrage in Hong Kong with no screening of candidates through a nominating committee.

CUHK Human Rights Concern Group

49. Referring to the new round of reclamation plan at five locations recently announced by the Government, Miss CHOW Fong-yuen submitted that the preservation of local culture/characteristics and residents' views were equally important as the environmental impact assessment in the consideration of whether the reclamation plans should be taken forward.

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Students' Union of Lingnan University

50. Miss Cindy NG Ka-sin strongly urged the Administration to take immediate action to implement genuine universal suffrage. She criticized the Government for its undue delay on the matter. She further expressed dissatisfaction about the excessive use of force by the Police in handling public demonstrations and assemblies.

Students' Union of the Hong Kong Institute of Education

51. Mr CHAN Wai-ho urged the Administration to implement genuine universal suffrage for the CE election in 2017 and the system of universal suffrage should be consistent with the relevant provision of ICCPR.

Students' Union of the Hong Kong Polytechnic University

52. Mr LAW Cheuk-yiu said that many social injustices were attributed to the present political system which was unfair and undemocratic. The Administration was urged to expedite the implementation of universal suffrage for CE and LegCo elections.

Student Union of Hong Kong Baptist University

53. Mr Kinson LAM Pak-kin expressed concern about the retrogression in democratic development in Hong Kong since the Reunification and in the protection of freedom of assembly and the press. He called on the Administration to implement universal and equal suffrage and provide a timetable for the implementation.

Labour Party

54. Mr LAM Cho-ming pointed out that UNHRC had recommended establishing an independent human rights commission and expressed concern that the Independent Police Complaints Council did not have investigative power. Mr LAM also called on the Administration to enact legislation to prohibit discrimination on the ground of sexual orientation and gender identity.

Beyond the Boundary – Know and Concern the Intersex Peoples
[LC Paper No. CB(2)1179/12-13(06)]

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55. Ms Small LUK presented the views of her organization as detailed in its submission. She said that intersex people in Hong Kong were not protected under the law. She called on the Administration to take legislative measures and provide various support services to them and their families.

Hong Kong Social Workers' General Union ("HKSWGU")

56. Mr POK Fook-sun expressed concerns about the application of POO and the lack of a mechanism to conduct independent investigation into complaints against abuse of Police power. Referring to the joint meeting of Panel on Health Services and Panel on Welfare Services held on 31 March 2012, the Administration was requested to consider the measures proposed by HKSWGU as set out in its submission provided to that meeting with a view to formulating a comprehensive mental health policy.

Miss CHEUNG Sze-wing

57. Miss CHEUNG Sze-wing suggested that in forming the future nomination committee as provided under BL 45, reference should be made to the existing composition of the Election Committee with particular emphasis on enhancing the committee's representativeness. She called on parties concerned to reach a consensus early on the key issues concerning universal suffrage.

Yat Tung Community Network Association

58. Mr KWOK Chung-man hoped that the court ruling in the case of *W v. The Registrar of Marriages (FACV No. 4 of 2012)* would serve to prompt the Administration to strengthen the protection of sexual minorities. Referring to paragraphs 3.4 and 3.5 of the Administration's response to UNHRC's list of issues, Mr KWOK expressed concern about the lack of information provided by the Administration on the arrangements for the 2016 LegCo Election.

The Hong Kong Refugee Advice Centre ("HKRAC")
[LC Paper No. CB(2)1134/12-13(07)]

59. Ms Aleta Miller highlighted the concerns of HKRAC as detailed in its submission regarding the human rights situation of asylum seekers and refugees seeking protection in Hong Kong, and urged the Government to expand the scope of protection for refugees as recommended by UNHRC.

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She expressed regret regarding the Government's position of not seeking the extension of the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol as well as the lack of any domestic refugee law.

60. Members noted that two submissions [LC Paper Nos. CB(2)1134/12-13(08) and CB(2)1179/12-13(07)] were provided by individuals/organizations not attending the meeting as set out in the agenda.

Discussion

The ICCPR mechanism

61. Mr CHAN Chi-chuen questioned the effectiveness of ICCPR in pressing for improvements to be made by the HKSAR Government in human rights protection. He believed that the Government, after attending the hearing of UNHRC on HKSAR's third report, would not pursue with making any such improvements, since Hong Kong's next report under ICCPR was due in 2018, i.e. the next term Government. Dr Kenneth CHAN, however, considered that the recommendations made by UNHRC in its concluding observations were very important to Hong Kong, and the Panel should continue to closely monitor the Administration's implementation of the recommendations.

62. Under Secretary for Constitutional and Mainland Affairs ("USCMA") said that the Administration appreciated the constructive dialogue it had with UNHRC and respected the Committee's views. He said that prior to attending the UN hearing on 12-13 March 2013, the Administration had provided detailed responses to the list of issues raised by UNHRC. UNHRC published its concluding observations on the third report of HKSAR under ICCPR on 28 March 2013. USCMA said that the Administration would implement UNHRC's recommendations where they were feasible and practicable in the light of Hong Kong's circumstances. USCMA further highlighted the progress made by the Administration in the protection of individuals against discrimination on the basis of race and in the implementation of the 2012 constitutional reform package which had enhanced the democratic elements of the two electoral methods.

Constitutional development

63. Ms Emily LAU criticized the Government for its delay in conducting public consultation on the methods for forming LegCo in 2016 and for

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selecting CE by universal suffrage in 2017, which in her view might trigger a lot of people to take to the street. In response to Ms LAU's comments, Mr YEUNG Ching-yin of Hong Kong Federation of Students said that the Government's long delay in commencing the consultation had driven Hong Kong people out of patience, and the "Occupy Central" movement would be an option in order to fight for universal suffrage should there be further delay.

64. Dr Helena WONG expressed disappointment with the slow progress of the democracy development of Hong Kong. She considered that Hong Kong had lagged behind in democracy development compared with its neighboring places such as Taiwan. Mr IP Kwok-him, however, considered that the constitutional development of Hong Kong should be taken forward in accordance with the principle of gradual and orderly progress. In his view, now that Hong Kong already had the timetable for attaining universal suffrage as decided by NPCSC, the society should make concerted efforts in exploring the best way of achieving this goal.

65. Dr Kenneth CHAN expressed dissatisfaction with the recent remarks made by Miss Elsie LEUNG, the Deputy Director of the Basic Law Committee of HKSAR, that the "Occupy Central" movement was "dictatorship by the minority", and asked about the Administration's position. Mr LEUNG Kwok-hung criticized the HKSAR Government for lacking sincerity in fulfilling its obligation under ICCPR by maintaining the reservation in relation to article 25(b) concerning universal suffrage. He called on all Hong Kong people to join the 1 July rally to fight for universal suffrage.

66. USCMA said that the Government was committed to attaining the ultimate aim of selecting CE and electing all the Members of LegCo by universal suffrage in accordance with the Basic Law and the Decision adopted by NPCSC in December 2007. The Administration would conduct comprehensive consultations on the election methods of CE in 2017 and of LegCo in 2016, and would initiate the constitutional procedures at an appropriate juncture. He added that Hong Kong people were welcome to express their views on the matters in a peaceful way to the Administration.

Discrimination on the basis of sexual orientation and gender identity

67. Mr CHAN Chi-chuen asked whether it was the Administration's plan to review the existing four anti-discrimination ordinances with a view to

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consolidating them into a single ordinance and add new grounds (e.g. religion, age, sexual orientation and gender identity) to prohibit discrimination in these areas as well. Mr CHAN also called on the Administration to step up publicity and public education on equal opportunities for sexual minorities. He further requested Miss Angel TSANG Hon-wai of the Transgender Group to provide details of cases of allegedly discriminatory acts against transgendered persons by CSD staff as mentioned during her presentation of views for the Administration's follow-up.

68. Dr Priscilla LEUNG said that the issue of legislating against discrimination on the ground of sexual orientation was very controversial. She suggested that disputes in this regard might be resolved by mediation and requested the Administration to explore in this direction. She added that many people who opposed enacting the legislation dare not express their opinions as they feared that they might be subjected to attack.

69. USCMA said that while CE had indicated in the Policy Address 2013 that the Government at present had no plan to conduct public consultation on whether legislation should be enacted to protect people of different sexual orientations against discrimination, the Administration's position remained that no person should be discriminated against on any grounds, including sexual orientation. He said that the Administration had instituted various public education and publicity programmes, with a view to fostering in the community a culture of mutual understanding, tolerance and mutual respect. These included sponsoring worthwhile community projects through the Equal Opportunities (Sexual Orientation) Funding Scheme, and establishing a new platform to exchange views with different stakeholders on this issue. As to whether the issue would be taken forward by legislative means, USCMA said that the Administration was studying the relevant legislative and administrative measures adopted in overseas jurisdictions with a view to formulating the way forward.

Protection of freedoms of expression and information

70. Dr Helena WONG considered that CE and senior officials should not try to evade protestors during community visits as she believed that most protestors acted in a peaceful manner. On the other hand, Mr IP Kwok-him pointed out that in the recent community visit by CE, some students had blocked the way to prevent the departure of CE's car. He considered that although people's right of protest should be respected, a balance had to be

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struck between the freedom of expression and the need to maintain social order.

71. Dr Kenneth CHAN requested the Administration to address the concerns raised by the Hong Kong Journalists Association in its submission [LC Paper No. CB(2)1179/12-13(07)] regarding the need to enact legislation on freedom of information so as to protect the right to know of the public. Dr CHAN further recounted his experience in seeking information from the Lands Department on the unauthorized building works of CE's residence. However, little information was provided by the Department. He considered that the need for legislation in this area was well proven.

Submission of information and the next report

72. USCMA informed members that HKSAR's next report in the light of ICCPR was due in 2018. The Administration was required to provide information on the implementation of UNHRC's recommendations in three areas within one year, namely the implementation of universal and equal suffrage for future elections; adoption of measures to ensure that all workers enjoyed their basic rights independently of their migrant status; and intensification of efforts to improve the quality of Chinese Language education for ethnic minorities and non-Chinese speaking students with an immigrant background. USCMA thanked the views expressed by the deputations and undertook to relay their concerns in relation to Chinese language education for ethnic minority students and the Police complaints handling system to the bureaux concerned for consideration and follow-up actions where appropriate.

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V. Any other business

73. There being no other business, the meeting ended at 5:50 pm.

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Legislative Council Secretariat
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