

立法會  
*Legislative Council*

LC Paper No. CB(2)1270/17-18

Ref : CB2/H/5/17

**House Committee of the Legislative Council**

**Minutes of the 18th meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 13 April 2018**

**Members present :**

Hon Starry LEE Wai-king, SBS, JP (Chairman)  
Hon Dennis KWOK Wing-hang (Deputy Chairman)  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon CHAN Kin-por, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-yea, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP

Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Gary FAN Kwok-wai  
Hon AU Nok-hin  
Hon Vincent CHENG Wing-shun, MH  
Hon Tony TSE Wai-chuen, BBS

**Members absent :**

Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Dr Hon Junius HO Kwan-yiu, JP

**Clerk in attendance :**

Miss Flora TAI Clerk to the House Committee

**Staff in attendance :**

Miss Odelia LEUNG	Acting Secretary General
Ms Connie FUNG	Legal Adviser
Ms Anita SIT	Assistant Secretary General 1
Ms Dora WAI	Assistant Secretary General 3
Mr Matthew LOO	Assistant Secretary General 4
Mr Timothy TSO	Senior Assistant Legal Adviser 1
Mr YICK Wing-kin	Senior Assistant Legal Adviser 2
Mr Kelvin LEE	Senior Assistant Legal Adviser 3
Ms Amy YU	Principal Council Secretary 1
Ms Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Miss Rachel DAI	Assistant Legal Adviser 2
Mr Alvin CHUI	Assistant Legal Adviser 3
Mr Bonny LOO	Assistant Legal Adviser 4
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Clara TAM	Assistant Legal Adviser 9
Mr Richard WONG	Senior Council Secretary (2)6
Miss Connie AU	Senior Council Secretary (2)8
Mr Clement HAU	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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**I. Confirmation of minutes of meeting**

**Minutes of 17th meeting held on 23 March 2018**

*(LC Paper No. CB(2)1190/17-18)*

The minutes were confirmed.

**II. Matters arising**

**Report by the Chairman on her meeting with the Chief Secretary for Administration**

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Progress of examining funding proposals for public works items

2. The Chairman said that the Chief Secretary for Administration ("CS") had expressed concern about the large number of public works items awaiting to be examined by the Legislative Council ("LegCo") and hoped that Members could complete the relevant examination work as soon as possible in order not to affect the livelihood of practitioners of the construction industry.

3. Mr Charles MOK said that Members from different political parties and groupings had discussed this matter before the Easter holiday, and that to his understanding, the Administration would rearrange the order of public works items to be submitted to the Public Works Subcommittee ("PWSC") for examination. Stressing that it was for the Administration to decide on the order of the works items on the agenda of PWSC, Mr MOK requested CS to call on relevant Government officials to expedite the aforesaid rearrangement work and submit those works items relating to people's livelihood to PWSC for examination as early as possible. He asked the Chairman and the Deputy Chairman to relay his request to CS at their next meeting with CS.

4. Dr KWOK Ka-ki said that the Administration had earlier consulted the Panel on Health Services on the works items relating to the proposed redevelopment or building of hospitals, and that the Panel members had raised no objection to the submission of the relevant works proposals to PWSC for examination. Dr KWOK noted that despite CS had repeatedly indicated his hope that such works items could be taken forward, the Administration had not yet submitted these works items, which were related to people's livelihood, to PWSC for examination. He urged the Administration to submit these works items to PWSC as early as possible.

Scrutiny work of the Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill

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5. Ms Tanya CHAN said that the Secretary for Transport and Housing had issued a letter to the Chairman of the Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill on 12 April 2018 indicating his hope that the Bills Committee could expeditiously carry out and complete the scrutiny work. Ms CHAN further said that the Bills Committee had only commenced its work for two months and it was striving to scrutinize the Bill. She considered it

unusual and very inappropriate for the executive authorities to write to the legislature requesting the Bills Committee to complete its work by early May 2018. She indicated that Members of the pro-democracy camp would write to the Administration on the matter, and hoped that the Chairman and the Deputy Chairman would relay her views to CS.

### **III. Business arising from previous Council meetings**

#### **(a) Legal Service Division reports on bills referred to the House Committee in accordance with Rule 54(4)**

##### **(i) Inland Revenue (Amendment) (No. 2) Bill 2018** *(LC Paper No. LS49/17-18)*

6. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the Bill.

7. Mr Charles MOK considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Mr Charles MOK agreed to join the proposed Bills Committee.

##### **(ii) Sailors Home and Missions to Seamen Incorporation (Amendment) Bill 2018** *(LC Paper No. LS50/17-18)*

8. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the Bill.

9. Members considered it not necessary to form a Bills Committee to study the Bill and did not raise objection to the resumption of the Second Reading debate on the Bill.

#### **(b) Legal Service Division report on subsidiary legislation gazetted on 23 March 2018 and tabled in Council on 28 March 2018** *(LC Paper No. LS47/17-18)*

10. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the 13 items of subsidiary legislation (i.e. L.N. 43 to L.N. 55) which were gazetted on 23 March 2018 and tabled in Council on 28 March 2018.

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11. Members did not raise any questions on these items of subsidiary legislation.

12. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation would be the Council meeting of 25 April 2018.

(c) **Legal Service Division report on subsidiary legislation gazetted on 29 March 2018 and tabled in Council on 11 April 2018**  
(*LC Paper No. LS48/17-18*)

13. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the International Organizations (Privileges and Immunities) (New Development Bank) Order (L.N. 59) which was gazetted on 29 March 2018 and tabled in Council on 11 April 2018.

14. Mr WU Chi-wai considered it necessary to form a subcommittee to study the Order in detail. Members agreed. Mr WU Chi-wai agreed to join the proposed subcommittee.

15. The Chairman reminded Members that the deadline for amending the Order would be the Council meeting of 9 May 2018, or that of 30 May 2018 if extended by a resolution of the Council.

(d) **Legal Service Division report on subsidiary legislation gazetted on 6 April 2018 and tabled in Council on 11 April 2018**  
(*LC Paper No. LS51/17-18*)

16. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the five items of subsidiary legislation (i.e. L.N. 60 to L.N. 64) which were gazetted on 6 April 2018 and tabled in Council on 11 April 2018.

17. Mr Jeremy TAM considered it necessary to form a subcommittee to study the Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2018 (L.N. 63) in detail. Members agreed. The following Members agreed to join the subcommittee: Mr Holden CHOW, Ms Tanya CHAN and Mr Jeremy TAM.

18. Members did not raise any questions on the other four items of subsidiary legislation (i.e. L.N. 60 to L.N. 62 and L.N. 64).

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19. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation would be the Council meeting of 9 May 2018, or that of 30 May 2018 if extended by a resolution of the Council.

**IV. Business for the Council meeting on 25 and 26 April 2018**

(a) **Questions**

*(LC Paper No. CB(3)508/17-18)*

20. The Chairman said that 22 written questions had been scheduled for the meeting.

(b) **Bill - First Reading and moving of Second Reading**

21. The Chairman said that the House Committee ("HC") would consider the Companies (Amendment) Bill 2018 at its meeting on 27 April 2018.

(c) **Bill - resumption of debate on Second Reading**

**Appropriation Bill 2018**

**(Members speak)**

22. The Chairman informed Members that in accordance with Rule 36(5) of the Rules of Procedure ("RoP"), the speaking time limit for each Member at the debate was 15 minutes.

**Report of HC on Consideration of Subsidiary Legislation**

23. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)517/17-18), which contained 13 items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 25 April 2018. She reminded Members to indicate their intention by 12:00 midnight on Tuesday, 17 April 2018, should they wish to speak on any of these items of subsidiary legislation.

**V. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2)1191/17-18)*

24. The Chairman said that as at 12 April 2018, there were seven Bills Committees (one of which would need to work beyond three months since its commencement), 10 subcommittees under HC and four subcommittees on policy issues under Panels in action. Eight subcommittees on policy issues were on the waiting list.

**VI. Requests to seek the House Committee's recommendation for the holding of an adjournment debate pursuant to Rule 16(4) of the Rules of Procedure at the Council meeting of 9 May 2018 on issues relating to the remarks about Hong Kong made by Mr Benny TAI Yiu-ting at a forum held in Taiwan in March 2018**

(a) **Letter from Dr Hon KWOK Ka-ki**  
*(LC Paper No. CB(2)1193/17-18(01))*

(b) **Letter from Hon CHAN Hak-kan**  
*(LC Paper No. CB(2)1193/17-18(02))*

25. The Chairman said that Dr KWOK Ka-ki and Mr CHAN Hak-kan had respectively written to her proposing that an adjournment debate pursuant to RoP 16(4) be held at the Council meeting of 9 May 2018 on issues relating to the remarks about Hong Kong made by Mr Benny TAI Yiu-ting at a forum held in Taiwan in March 2018 and that the wording of the motions proposed by the two Members was set out in their letters.

26. At the invitation of the Chairman, Dr KWOK Ka-ki said that the Hong Kong Special Administrative Region ("HKSAR") Government had issued a statement on 30 March 2018 to condemn the remarks about Hong Kong made by Mr Benny TAI, Associate Professor of the Department of Law of the University of Hong Kong, and the Hong Kong and Macao Affairs Office of the State Council, the Liaison Office of the Central People's Government in HKSAR as well as 41 Members of the pro-establishment camp had also made similar condemnations against Mr TAI's remarks in the following days. Dr KWOK criticized that it was very unusual and extremely inappropriate for the HKSAR Government to condemn an individual for what he or she had said or done which did not violate the laws of Hong Kong. Pointing out that the freedom of speech and academic freedom in Hong Kong were protected by the Basic Law ("BL"), Dr KWOK was concerned that the purpose of condemning Mr



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TAI's remarks on the pretext of prohibiting the advocacy of "Hong Kong independence" was to create a chilling effect to tighten these freedoms in Hong Kong. Given that this was an important matter, he considered it necessary to hold an adjournment debate on the impact of the condemnation statement issued by the HKSAR Government against the remarks made by Mr TAI on the freedom of speech and academic freedom in Hong Kong.

27. At the invitation of the Chairman, Mr CHAN Hak-kan said that he, on behalf of Members of the pro-establishment camp, proposed that an adjournment debate be held on the impact of the remarks made by Mr Benny TAI that Hong Kong could consider becoming an independent state on the interests of Hong Kong and the nation. He believed that the majority of people in Hong Kong would agree that HKSAR was an inalienable part of China and it was wrong to advocate "Hong Kong independence". In Mr CHAN's view, Mr TAI's seditious remarks made at a forum organized by a pro-independence group in Taiwan could in no way be regarded as merely an academic discussion. Mr CHAN pointed out that although Hong Kong people's freedom of speech was enshrined in BL, it did not mean that people could wantonly make remarks to advocate "Hong Kong independence" which was against the Constitution of China and BL. He also commented that not only had Mr TAI refused to apologize for his remarks but he had also attempted to mislead the public by accusing the HKSAR Government of condemning him for political motives. Mr CHAN opined that Members who considered the matter to be an issue of freedom of speech was tantamount to supporting or agreeing with advocacy of "Hong Kong independence". He hoped that Members would support his proposal so that Members could make it clear that LegCo was against "Hong Kong independence".

28. Expressing support for Mr CHAN Hak-kan's proposal, Mr Tony TSE said that Mr Benny TAI had spearheaded the "Occupy Central" movement which had caused a severe blow to people's livelihood and the local economy. He considered that if Mr TAI was not in support of "Hong Kong independence" as claimed by Mr TAI recently, Mr TAI should not have repeatedly expressed the view that independence could be an option for Hong Kong. Mr TSE further said that freedom of speech was not without bounds, as according to Article 19 of the International Covenant on Civil and Political Rights ("ICCPR"), the exercise of the right to freedom of expression might be subject to certain restrictions as were provided by law and were necessary for, amongst others, the protection of national security. He queried whether the

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remarks made by Mr TAI had infringed on the protection of national security. Mr TSE stressed that any advocacy of "Hong Kong independence" was against the Constitution of China and the "one country, two systems", and it was also detrimental to the interests of Hong Kong and the nation.

29. Dr Fernando CHEUNG expressed support for Dr KWOK Ka-ki's proposal. He considered it worthwhile to hold an adjournment debate on issues relating to the remarks about Hong Kong made by Mr Benny TAI at the Council meeting of 9 May 2018 as it was incumbent upon LegCo to debate as early as possible issues concerning public interest. He also pointed out that Mr TAI had already explicitly stated that he did not support "Hong Kong independence", and that the remarks made by Mr TAI, which was hypothetical in nature, only suggested that independence could be an option for Hong Kong someday in future when dictatorship in China was ended. As to whether freedom of speech was subject to any limit, Dr CHEUNG was of the view that an individual should not give views which would incite violence or promote hatred.

30. Ms Claudia MO said that this was not the first time that Mr Benny TAI had made remarks about Hong Kong and in fact, he had published similar remarks in a local newspaper three years ago. She queried why the HKSAR Government did not take any action against Mr TAI's remarks three years ago but strongly condemned his remarks this time. Ms MO further said that the remarks that Mr TAI had made were merely a discussion on a hypothetical scenario and she was not aware that a mere expression of views about "Hong Kong independence" would violate the laws of Hong Kong. She was worried that the HKSAR Government had condemned Mr TAI's remarks to deliberately create an atmosphere for suppressing the freedom of speech in Hong Kong.

31. Mr LEUNG Che-cheung expressed support for Mr CHAN Hak-kan's proposal. He said that the forum that Mr Benny TAI had participated in Taiwan in March 2018 was attended by many people who supported the pro-independence activities in Taiwan, Tibet and Xinjiang. Given that Mr TAI had played a leading role in the "Occupy Central" movement, he did not subscribe to the view that the remarks made about Hong Kong by Mr TAI were merely an academic discussion. Mr LEUNG considered that Members of the pro-democracy camp should not use academic freedom as a pretext not to condemn Mr TAI's remarks. In his view, as Chinese, Hong Kong people should condemn Mr TAI's remarks and all acts of advocating "Hong Kong independence".

32. Mr WONG Kwok-kin said that Mr Benny TAI had made the remarks that Hong Kong could consider becoming an independent state at a forum in Taiwan and the forum was attended by people advocating for the independence of Taiwan, Tibet and Xinjiang. Mr WONG considered that some political parties and groupings had tried to exonerate Mr TAI and criticized that the condemnation against Mr TAI's remarks would infringe the freedom of speech and academic freedom in Hong Kong. He questioned whether this had revealed the fact that some people only claimed to oppose "Hong Kong independence", but deep down they actually supported it. Mr WONG was of the view that the present absence of legislation in Hong Kong to punish people for advocating "Hong Kong independence" actually signified the need to enact legislation to deter their acts.

33. Mr SHIU Ka-fai said that he observed that the organizer of the forum that Mr Benny TAI had participated was an advocate for the independence of Taiwan; the groups attending the forum were all pro-independence advocates; even all the speeches made at the forum were consistently advocating for the independence of Taiwan, Xinjiang and Hong Kong. Mr SHIU also commented that Mr TAI had initiated the "Occupy Central" movement, which at first was only a suggestion made by Mr TAI but had actually become reality, affecting many Hong Kong people including those frontline workers in the wholesale and retail industries. Against the above background, he therefore did not consider the said forum an academic discussion. Mr SHIU hoped that Members would support Mr CHAN Hak-kan's proposal.

34. Mr HO Kai-ming said that he supported Mr CHAN Hak-kan's proposal. He held the view that the forum held in Taiwan, which was attended by pro-independence advocates, was not an academic discussion, and that the remarks made by Mr Benny TAI at the forum were nothing related to an academic research or discussion. He cautioned that academic freedom should not be used casually as an excuse for expressing views that were wrong as it would stigmatize academic freedom. Mr HO further said that although there was presently no legislation to punish Mr TAI for the remarks he made about Hong Kong, he considered that Members should make it clear to the public that it was wrong to advocate "Hong Kong independence".

35. Mr HUI Chi-fung expressed support for Dr KWOK Ka-ki's proposal. He considered that the condemnations against Mr Benny TAI's remarks about Hong Kong by the HKSAR Government and Members of the pro-establishment camp were suppressing not only Mr TAI as an individual, but also the freedom of speech of Hong Kong people. He criticized that the HKSAR Government and Members of the pro-establishment camp had unduly overplayed the matter and had taken Mr TAI's remarks out of context. Mr HUI was concerned whether the HKSAR Government and Members of the pro-establishment camp, by condemning Mr TAI's remarks, were trying to convict someone by his expression of opinion, and whether the mere mentioning of "Hong Kong independence" had become a taboo.

36. Mr CHEUNG Kwok-kwan said that he supported Mr CHAN Hak-kan's proposal. He noted that Mr Benny TAI had participated in various political activities, such as the "Occupy Central" movement and the "ThunderGo" campaign, and had great political influence. Having regard to the time, location and attendants of the forum which Mr TAI had participated in Taiwan, he considered that the forum was not an academic discussion, but rather a political activity. Mr CHEUNG further said that he did not see any problems for the HKSAR Government to issue a statement to condemn Mr TAI's remarks about Hong Kong as advocating "Hong Kong independence" ran against BL. He also queried the view that the HKSAR Government's condemnation statement against Mr TAI's remarks had created a chilling effect in the Hong Kong society as he observed that many Members of the opposition camp continued to voice out their views after the issuance of the condemnation statement.

37. Mr LEUNG Yiu-chung said that people should not impose their views on others, as otherwise this would deprive the freedom of speech of other people. He further said that only an authoritarian and dictatorial government would criticize or even condemn the views expressed by its people. In his view, the HKSAR Government should not use its power to condemn the speech of its people as this would be a clear case of undermining freedom of speech. Mr LEUNG emphasized that an individual should not be condemned for his or her political stance or analysis, and considered that the "bottom line for freedom of speech" was that speeches inciting violence or promoting hatred should not be allowed.

38. Mr CHAN Chi-chuen opined that the HKSAR Government could use all channels to smear a person and in this sense, it enjoyed the most freedom of speech. He criticized that Members of the pro-establishment camp had always accused people of having a hidden intention to advocate "Hong Kong independence", for examples, the six Members of the pro-democracy camp who had been disqualified from office and those who opposed the co-location arrangement of the Guangzhou-Shenzhen-Hong Kong Express Rail Link at the West Kowloon Station. Pointing out that the focus of the motion proposed by Dr KWOK Ka-ki was about the impact of the condemnation statement issued by the HKSAR Government on the freedom of speech and academic freedom in Hong Kong, Mr CHAN considered that the proposed adjournment debate could provide a platform for the Government to explain its grounds for issuing the condemnation statement, and whether Mr Benny TAI had violated any provision in law.

39. Mr Charles MOK said that while the wording of Mr CHAN Hak-kan's proposed motion focused on the act and the remarks of Mr Benny TAI as an individual, the wording of Dr KWOK Ka-ki's proposed motion focused on the condemnation statement of the HKSAR Government as well as its influence on the freedom of speech and academic freedom in Hong Kong. Citing BL 73 which stipulated that LegCo could debate any issue concerning public interests, Mr MOK commented that the public could see clearly that unlike some Members who were using their power to target at an ordinary person, Members of the pro-democracy camp were endeavouring to fulfil their duty of monitoring the HKSAR Government.

40. Mr WU Chi-wai concurred with Mr Charles MOK that the focus of the two proposed motions were different in nature, with Dr KWOK Ka-ki's proposed motion concerning the condemnation statement issued by the HKSAR Government against Mr Benny TAI's remarks about Hong Kong and Mr CHAN Hak-kan's proposed motion concerning the remarks made by Mr TAI as an individual. He considered that any attempt to set restriction on the content of discussion about the future of Hong Kong would amount to limiting the freedom of speech of Hong Kong people. Mr WU stressed that Members of the Democratic Party had already openly expressed their opposition against "Hong Kong independence", and their intention to safeguard freedom of speech should not be interpreted as implicitly advocating "Hong Kong independence".

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41. Dr CHENG Chung-tai said that he opposed Mr CHAN Hak-kan's proposal and remained undecided about Dr KWOK Ka-ki's proposal. Pointing out that the remarks made by Mr Benny TAI had not violated the laws of Hong Kong, he considered it inappropriate for some Members to overplay the matter. Dr CHENG further said that he concurred with the view that it was inappropriate for LegCo to spend its meeting time on discussing the remarks made by an individual, and added that even if the remarks made by Mr TAI about Hong Kong had caused concern to Members of the pro-establishment camp, there were some other more urgent issues which, in his view, should be discussed by LegCo, e.g. public concerns about legal cooperation between Hong Kong and Taiwan arising from a recent murder case suspected to be committed by a Hong Kong citizen in Taiwan.

42. Mr Alvin YEUNG expressed support for Dr KWOK Ka-ki's proposal. In his view, it was not right for the HKSAR Government to openly condemn Mr Benny TAI just because of the remarks made by him as an individual. Furthermore, if some Hong Kong people were indeed in support of "Hong Kong independence", it was an indication that the HKSAR Government and the governance of Hong Kong were at fault. He added that even if Members of the pro-establishment camp had to take Mr TAI's remarks as an opportunity to express their stance against "Hong Kong independence", he considered it more meaningful and beneficial to Hong Kong if those Members could convince the public by reasoning and explain to the public as to why "Hong Kong independence" was so problematic, rather than keep denouncing Mr TAI and drawing a "red line" for "Hong Kong independence".

43. Mr AU Nok-hin considered that Dr KWOK Ka-ki's proposed motion was about the impact of the condemnation statement issued by the HKSAR Government against Mr Benny TAI's remarks about Hong Kong while Mr CHAN Hak-kan's proposed motion was targeted at the speech or act of an individual. In his view, it was inappropriate to hold a debate at the Council meeting on the remarks made by an individual, as the meeting time of LegCo should be spent on discussing bills and issues relating to people's livelihood. Mr AU also cited the remarks made by Mr MAO Zedong advocating pro-independence ideas in China during the period between 1910s and 1920s, and queried whether any individual who had expressed such ideas would be condemned.

44. Ir Dr LO Wai-kwok expressed support for Mr CHAN Hak-kan's proposal, and queried whether Members of the non-establishment camp who defended Mr Benny TAI were actually in support of "Hong Kong independence". In his view, Mr TAI was not an ordinary scholar, as he had initiated a series of political activities including the "Occupy Central" movement and the "ThunderGo" campaign. Furthermore, the remarks made by Mr TAI at the forum in Taiwan organized by pro-independence activists not only indicated that he was an advocate of "Hong Kong independence", but also gave rise to significant political impact. Ir Dr LO therefore considered it agreeable for the HKSAR Government to issue the condemnation statement against Mr TAI's remarks about Hong Kong.

45. Mr Gary FAN said that he supported Dr KWOK Ka-ki's proposal and opposed Mr CHAN Hak-kan's proposal. He expressed worries that Mr Benny TAI's remarks about Hong Kong were being twisted and overplayed for political purpose, which was similar to what had happened during the period of the Cultural Revolution in China. Having regard to the fact that various political campaigns had been launched to oppress the academic freedom in China in the past, he queried whether the HKSAR Government had taken its first step to oppress academic freedom. Mr FAN also criticized Members of the pro-establishment camp for taking the incident concerning the remarks made by Mr TAI as an opportunity to show their political stance irrespective of the fact that Mr TAI had not violated the laws of Hong Kong.

46. Mr LAU Kwok-fan considered it imperative to make it clear that it was wrong to advocate "Hong Kong independence". In his view, the remarks made by Mr Benny TAI were advocating "Hong Kong independence" which had contravened BL 1 and BL 12 and had serious impact on the "one country, two systems". Given that Mr TAI was not an ordinary scholar but one of the initiators of the "Occupy Central" movement, Mr LAU considered it necessary for the HKSAR Government to issue the condemnation statement to safeguard the "one country, two systems". He also considered it incumbent upon Members to condemn any attempt to advocate "Hong Kong independence" and explain to the public that such attempts were detrimental to the "one country, two systems". He therefore supported Mr CHAN Hak-kan's proposal.

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47. Expressing support for Mr CHAN Hak-kan's proposal, Mrs Regina IP considered that the wording of Mr CHAN's proposed motion was based on facts and had not overplayed the matter. In her view, as Mr Benny TAI was a political activist and the forum he participated was of political nature, the remarks he made at that forum had nothing to do with academic freedom. Besides, even though BL 39 stipulated that the provisions of ICCPR as applied to Hong Kong should remain in force, pursuant to Article 19 of ICCPR, the exercise of the right to freedom of expression might be subject to certain restrictions as were provided by law and were necessary for, amongst others, the protection of national security. Given that Mr TAI's remarks had aroused public concerns, Mrs IP considered it appropriate to hold an adjournment debate at the Council meeting so that the public could better understand the political views of Members of different political parties and groupings.

48. Mr Holden CHOW expressed support for Mr CHAN Hak-kan's proposal. He opined that being a public figure and an academic staff of a university, Mr Benny TAI had an ethical responsibility towards young people and it was very inappropriate for him to propagate the ideas of "Hong Kong independence" or secession to them. He criticized that it was irresponsible on the part of Mr TAI to use freedom of speech and academic freedom as a shield for his remarks about Hong Kong. Mr CHOW cautioned that in many places around the world, movements to strive for independence had incited hatred and even ended in bloodshed. In his view, any act to advocate "Hong Kong independence" or secession should be condemned.

49. Dr Elizabeth QUAT also expressed support for Mr CHAN Hak-kan's proposal. She said that Mr Benny TAI was one of the initiators of the illegal "Occupy Central" movement that had caused a severe blow to the society, yet the initiators of the movement were still at large. Dr QUAT was of the view that Mr TAI's remarks about Hong Kong were not an academic discussion, instead, they were about how to overthrow the state power in China and achieve independence in Hong Kong. She commented that Members should not use freedom of speech and academic freedom to cover up Mr TAI's act of advocating "Hong Kong independence" as his remarks were detrimental to Hong Kong. Those Members who tried to cover up Mr TAI's act had to tell the public whether they in fact supported "Hong Kong independence".



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50. Mr KWOK Wai-keung said that he supported the proposal from Mr CHAN Hak-kan. He pointed out that judging from the background of the organization hosting the forum in Taiwan, the past political activities that Mr Benny TAI had initiated as well as the remarks that he had made about Hong Kong at the forum, it was evident that the motive of Mr TAI for making such remarks was not academic discussion. Mr KWOK cautioned that any advocacy of "Hong Kong independence" would only bring about chaos and social instability. In his view, Members had a social responsibility to send a clear message to the society that while Hong Kong people enjoyed the freedom of speech, they should not advocate "Hong Kong independence" which ran against BL.

51. Dr Helena WONG expressed support for Dr KWOK Ka-ki's proposal. She said that what Mr Benny TAI had said at the forum in Taiwan was that if dictatorship in China was ended, Hong Kong could consider becoming an independent state, or a part of a federal system or a confederation system. She criticized that the HKSAR Government and Mr CHAN Hak-kan had twisted Mr TAI's remarks about Hong Kong and taken them out of context. Dr WONG considered that if the freedom of speech genuinely existed in Hong Kong, there should be room for people to discuss the subject of "Hong Kong independence" and put forward reasons for supporting or opposing it.

52. Mr CHU Hoi-dick considered that the condemnations made by the HKSAR Government and Members of the royalist camp against Mr Benny TAI's remarks about Hong Kong were out of proportion. He commented that while the HKSAR Government and Members of the royalist camp had repeatedly emphasized that any advocacy of "Hong Kong independence" should be condemned as it would violate the Constitution of China, they did not raise any concerns about the treatment of certain human rights lawyers in China, which, in his view, was against the Constitution of China. Mr CHU considered it desirable to hold an adjournment debate at the Council as it would provide an opportunity for Members to discuss issues related to Mr TAI's remarks about Hong Kong.

53. Using the Chinese historical figure WU Sangui as an analogy, Mr Steven HO commented that people should not believe in Mr Benny TAI's claim that he was not in support of "Hong Kong independence". Pointing out that Mr TAI had initiated a series of political activities including the "Occupy Central" movement and the "ThunderGo" campaign, he considered that Members of the pro-democracy camp were trying to shift the attention away from Mr Benny TAI's remarks about

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Hong Kong by pinpointing the condemnation made by the HKSAR Government against Mr TAI's remarks. Mr HO was of the view that Members of the pro-democracy camp were attempting to cover up Mr TAI's advocacy of "Hong Kong independence".

54. Mr Paul TSE said that a Member might move a motion for the adjournment of the Council for the purpose of raising any issue concerning public interest. He pointed out that if a motion for the adjournment of the Council moved under RoP 16(4) was agreed to, the Council should stand adjourned. Therefore, the passage of the motion moved under RoP 16(4) was not a decision of the Council on the issue raised in the motion. According to RoP 16(7), if at the expiration of one and a half hours from the moving of the motion, such motion had not been agreed to, the President should adjourn the Council without putting any question. Mr TSE considered that in order to fully comprehend the message conveyed in the remarks about Hong Kong that Mr Benny TAI had made at a forum in Taiwan, one should take into consideration the background of the organization hosting the forum, the nature of the forum, the theme of the forum, the attendants of the forum as well as the capacity in which Mr TAI had participated in the forum. Regarding some Members' view that the HKSAR Government should not issue the condemnation statement against Mr TAI's remarks which, in these Members' view, did not violate the laws of Hong Kong, Mr TSE said that he recalled that in the past, the HKSAR Government had also condemned inappropriate acts other than those in violation of the law, for example, the filibustering of Members of the pro-democracy camp at the Council.

55. Dr KWOK Ka-ki reiterated that the freedom of speech and academic freedom in Hong Kong must not be infringed. He also stressed that it was totally unacceptable to attempt to conduct a political trial on an individual or to subject an individual to Cultural Revolution-style denunciation.

56. Mr CHAN Hak-kan said that he wished to give a piece of advice to Members of the opposition camp; not to try to use freedom of speech and academic freedom as a pretext for the remarks that Mr Benny TAI had made about Hong Kong. He further said that Members of the opposition camp should not on one hand claimed that they upheld the "one country, two systems" and did not support "Hong Kong independence", but on the other hand, connived at acts that would damage the "one country, two systems" under the pretext of freedom of speech. Mr CHAN appealed to Members' support for his proposal.

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57. Mr Paul TSE said that while the wording of the two motions proposed by Dr KWOK Ka-ki and Mr CHAN Hak-kan were different, both proposed motions were related to the remarks about Hong Kong made by Mr Benny TAI in Taiwan. He enquired that if the proposals from Dr KWOK and Mr CHAN were both supported by Members, whether both proposed motions would be debated at the Council.

58. The Chairman advised that although both Dr KWOK Ka-ki and Mr CHAN Hak-kan had requested to seek HC's recommendation for the holding of an adjournment debate pursuant to RoP 16(4) at the Council meeting of 9 May 2018 on issues relating to the remarks about Hong Kong made by Mr Benny TAI at a forum held in Taiwan in March 2018, the wording of the motions proposed by the two Members were different. If Members agreed that HC should make such recommendation, they should choose the motion with the most appropriate wording in their view. She said that given Members' diverse views, she would put to vote the proposals of Dr KWOK and Mr CHAN respectively.

59. At the invitation of the Chairman, the Clerk supplemented that according to Rule 13(a) of the House Rules, not more than two motion debates initiated by Members should be held at each regular Council meeting. However, the holding of more than two such motion debates or an adjournment debate pursuant to RoP 16(4) in addition to not less than two such motion debates might be allowed by the President under special circumstances upon the recommendation of HC. As such, only one adjournment debate pursuant to RoP 16(4) would be held at each regular Council meeting upon the recommendation of HC. Therefore, Members should decide on the wording of the motion for the proposed adjournment debate for the President's consideration and permission.

60. At the invitation of the Chairman, Acting Secretary General said that there were occasions in the past where a motion for the adjournment of the Council was moved for the purpose of debating two different issues.

61. The Chairman put to vote the proposal of Dr KWOK Ka-ki to seek HC's recommendation for the holding of an adjournment debate pursuant to RoP 16(4) at the Council meeting of 9 May 2018 on the impact of the condemnation statement issued by the HKSAR Government against the remarks about Hong Kong made by Mr Benny TAI, Associate Professor of the Department of Law of the University of Hong Kong, in Taiwan on

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the freedom of speech and academic freedom in Hong Kong. Dr KWOK Ka-ki requested a division.

The following Members voted in favour of the proposal:

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Ms Tanya CHAN, Mr HUI Chi-fung, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.

(23 Members)

The following Members voted against the proposal:

Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Steven HO, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Mr Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Dr Pierre CHAN, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE.

(33 Members)

The following Member abstained from voting:

Dr CHENG Chung-tai

(1 Member)

62. The Chairman declared that 23 Members voted for and 33 Members voted against the proposal and one Member abstained from voting. The Chairman declared that the proposal was not supported.

63. The Chairman then put to vote the proposal of Mr CHAN Hak-kan to seek HC's recommendation for the holding of an adjournment debate pursuant to RoP 16(4) at the Council meeting of 9 May 2018 on the impact of the remarks made by Mr Benny TAI, one of the initiators of the "Occupy Central" movement, at a forum held in Taiwan in March 2018

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that Hong Kong could consider becoming an independent state on the interests of Hong Kong and the nation. Mr CHAN Hak-kan requested a division

The following Members voted in favour of the proposal:

Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Steven HO, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE.

(32 Members)

The following Members voted against the proposal:

Mr James TO, Mr LEUNG Yiu-chung, Prof Joseph LEE, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Dr Pierre CHAN, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.

(25 Members)

64. The Chairman declared that 32 Members voted for and 25 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was supported.

## **VII. Any other business**

65. There being no other business, the meeting ended at 3:54 pm.