

**Legislative Council Panel on Constitutional Affairs**

**The Chief Executive's 2021 Policy Address**

**Policy initiatives of the Constitutional and Mainland Affairs Bureau in relation to electoral arrangements, promotion of the Constitution and the Basic Law, promotion of equal opportunities and elimination of discrimination, etc.**

This paper briefs Members on the policy initiatives of the Constitutional and Mainland Affairs Bureau in relation to improving the electoral system and implementing the principle of “patriots administering Hong Kong”; promotion of the Constitution of the People’s Republic of China (the Constitution) and the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (the Basic Law); promotion of equal opportunities; and elimination of discrimination, etc. A paper on policy initiatives relating to Mainland co-operation will be separately submitted to the Panel on Commerce and Industry for discussion.

**Our vision**

2. Over the past two years, Hong Kong has encountered unprecedented political challenges. The Central Authorities have made two major moves, comprising the promulgation and implementation of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) and improving the electoral system of the Hong Kong Special Administrative Region (HKSAR), to put the implementation of “One Country, Two Systems” in the HKSAR back on the right track. To ensure the robustness of “One Country, Two Systems”, the HKSAR must continually improve the governance system under “One Country, Two Systems”, resolve the problems at root and restore order from chaos. We need to uphold the HKSAR’s constitutional order as enshrined in the Constitution and the Basic Law, as well as fully implement the new electoral system and the principle of “patriots administering Hong Kong”.

3. In respect of constitutional affairs, the HKSAR Government will strive to ensure that public elections under the improved electoral system will be conducted in a fair, open and honest manner. With “patriots administering Hong Kong” fully implemented, we will be able to achieve good governance for the public good as well as long-term stability and safety. At the same time, we will strive to actively promote the

Constitution and the Basic Law to members of the public, safeguard the fundamental rights protected by the Basic Law, as well as promote equal opportunities and eliminate discrimination.

4. The new initiatives we will pursue and on-going initiatives we will continue to implement are highlighted as follows –

New initiatives

- (a) Work closely with the Electoral Affairs Commission (EAC) to ensure that the 2021 Legislative Council (LegCo) General Election and the 2022 Chief Executive Election will be conducted in a fair, open and honest manner in accordance with the improved electoral system and relevant legislation;
- (b) Implement various improvement measures in the upcoming public elections, such as special queues for electors in need, and electronic poll register to enhance the accuracy and efficiency in the issuance of ballot papers. In addition, we will comprehensively review various current arrangements in an election, with a view to ensuring that the arrangements would be fair, open and honest on the one hand, while on the other suitably adding elements of and arrangements for enhancing efficiency and providing greater convenience for the public;
- (c) Study the provision of special voting arrangements for registered voters living in the Mainland who could not return to Hong Kong because of the COVID-19 epidemic, including setting up polling facilities at suitable boundary control points;
- (d) Introduce amendments to the Regional Flag and Regional Emblem Ordinance (Instrument A602) for better alignment with the newly amended National Flag and National Emblem Ordinance (Instrument A401) as well as with the National Anthem Ordinance (Instrument A405); and
- (e) Adopt a diversified approach to promote education on the Constitution and the Basic Law to various targeted groups, including the general public, students and civil servants, through different activities and approaches.

### On-going initiatives

- (a) Continue to implement the oath-taking requirements for all Members of the Election Committee just formed as stipulated in the amended local legislation;
- (b) Continue to study concrete legislative amendment proposals for the Personal Data (Privacy) Ordinance (Cap 486) (PDPO) jointly with the Office of the Privacy Commissioner for Personal Data to strengthen protection for personal data privacy;
- (c) Take forward the implementation following passage of the Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020 and Sex Discrimination (Amendment) Ordinance 2021 in liaison with the Equal Opportunities Commission (EOC), and continue to support the EOC in stepping up its sexual harassment prevention efforts;
- (d) Continue to maintain an overview on the overall implementation of the revised Administrative Guidelines on Promotion of Racial Equality in government bureaux and departments as well as related organisations;
- (e) Promote equal opportunities for people of different sexual orientation and transgender persons, with a view to fostering in the community the culture and values of inclusiveness, mutual respect and non-discrimination. Efforts include following up on the strategies and measures recommended by the Advisory Group on Eliminating Discrimination against Sexual Minorities; and
- (f) Promote public awareness and understanding of children's rights through the Children's Rights Education Funding Scheme.

### **Detailed measures**

#### Improving the electoral system

5. The National People's Congress (NPC) made the Decision on Improving the Electoral System of the HKSAR on 11 March this year. On 30 March, the Standing Committee of the National People's Congress

(NPCSC) adopted the amended Annex I to the Basic Law on Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region and Annex II to the Basic Law on Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures. To implement the amended Annexes I and II to the Basic Law, the HKSAR Government has published in gazette the Improving Electoral System (Consolidated Amendments) Ordinance 2021 on 31 May, which came into effect on the same day. The Ordinance was already passed by the LegCo. The HKSAR Government has also completed the relevant voter registration exercise.

6. Improving the electoral system puts in place institutional safeguards to ensure full implementation of the principle of “patriots administering Hong Kong”. In fact, ensuring “patriots administering Hong Kong” is cardinal to improving the HKSAR’s electoral system. It is also conducive to enhancing the effective governance of the HKSAR. With the full implementation of the principle of “patriots administering Hong Kong”, the HKSAR Government will be able to resolve deep-rooted problems in the social, livelihood and economic realms, etc., as well as achieve good governance for the public good and long-term stability and safety.

7. As the first elections after improving the electoral system, the 2021 Election Committee Subsector Ordinary Elections were successfully held on 19 September. The turnout was overwhelming with a rate of nearly 90%. The success of the elections is of great significance to Hong Kong and all members of the public, and has laid down a sound foundation for the two upcoming important elections, namely the 2021 Legislative Council General Election on 19 December this year and the 2022 Chief Executive Election on 27 March next year. We will work closely with the EAC to ensure that these two elections would be conducted in a fair, open and honest manner in accordance with relevant legislation, thereby fully implementing the principle of “patriots administering Hong Kong”. By drawing on our experience, we will also improve the polling arrangements and take forward various enhancement measures.

8. The overall arrangements for the Election Committee Subsector Ordinary Elections on 19 September this year conformed to the principles of openness, fairness, honesty and safety. A number of new enhancement measures, including the electronic poll register system and special queue arrangements, were launched successfully. Regarding

certain arrangements in the elections which were not satisfactory, we will earnestly follow up with the EAC as well as the Registration and Electoral Office, seriously take stock of the experience and make improvements. The purpose is to ensure that the two important upcoming elections would be conducted smoothly, on the one hand enhancing efficiency, accuracy and security of the elections while at the same time also providing the greatest facilitation to electors.

9. Besides, since the outbreak of the COVID-19 epidemic, cross-boundary people flow between the Mainland and Hong Kong has not yet resumed normal. At the same time, registered electors who are in the Mainland still hope to exercise their right to vote to perform their civic duty. We are now actively exploring the feasibility of setting up polling facilities at suitable boundary control points (BCPs) for these electors to cast their votes. Factors of consideration include: the location of the polling facilities; whether the venue and other arrangements would affect the flow of people at the BCPs; and how candidates, election agents and polling agents could monitor polling in the Closed Area, etc. We will closely monitor the latest situation of the epidemic and the relevant compulsory quarantine measures in order to decide whether and how to set up polling facilities at suitable BCPs, and will further discuss with the Mainland authorities in this regard.

#### Oath-taking by public officers

10. Upholding the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China are basic requirements for people administering Hong Kong and public officers as well as their fundamental obligation and responsibility. This is also an important foundation for ensuring the principle of "patriots administering Hong Kong".

11. To accurately implement the legislative intent of oath-taking requirements for public officers as stipulated in Article 104 of the Basic Law, the Interpretation of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China adopted by the NPCSC in November 2016 and the National Security Law, and to fulfil the constitutional responsibility of the HKSAR, the HKSAR Government has published in gazette the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Ordinance 2021 (the Ordinance) on 21 May, which came into effect on the same day. The Ordinance was already passed by the LegCo. At the same time, the

Improving Electoral System (Consolidated Amendments) Ordinance 2021 which was gazetted and took effect on 31 May has provided for oath-taking requirements for Members of the Election Committee.

12. The Ordinance stipulates very clearly for the first time the legal requirements for oath-taking of public officers, marking an important step for safeguarding the principle of “patriots administering Hong Kong”. At the same time, the Ordinance improves the oath-taking arrangements as required by the Basic Law, and sets out the legal consequences a public officer has to face if he or she engages in conduct in breach of the oath after taking the oath and assuming the office. This will be conducive to the full and faithful implementation of “One Country, Two Systems”. We will continue to implement the oath-taking requirements for Members of the Election Committee just formed.

#### National Flag, National Emblem, National Anthem, Regional Flag, Regional Emblem

13. The national flag, national emblem and national anthem are the symbols and signs of our country and must be protected by the law and respected by the people. The LegCo has completed scrutiny and passed the National Flag and National Emblem (Amendment) Ordinance 2021 on 29 September. The amended National Flag and National Emblem Ordinance came into effect on 8 October following gazettal on the same day, while the National Anthem Ordinance was already gazetted and took effect on 12 June last year, thereby implementing locally the amended National Flag Law of the People’s Republic of China and the amended National Emblem Law of the People’s Republic of China, as well as the National Anthem Law of the People’s Republic of China, respectively in accordance with Article 18 of the Basic Law. The HKSAR has fulfilled the constitutional responsibility.

14. The regional flag and regional emblem are the symbols and signs of the HKSAR. The HKSAR Government agrees that suitable amendments should be made to the Regional Flag and Regional Emblem Ordinance for better alignment with the newly amended National Flag and National Emblem Ordinance as well as with the National Anthem Ordinance. The HKSAR Government plans to introduce an amendment bill on the Regional Flag and Regional Emblem Ordinance to the LegCo in the next legislative session for scrutiny.

## Promotion of the Constitution and the Basic Law

15. The Constitution and the Basic Law together form the constitutional basis of the HKSAR and provide the strongest safeguard for the long-term prosperity and stability of Hong Kong. To ensure that the “One Country, Two Systems” principle is fully and accurately implemented, we must adhere to the Constitution and the Basic Law. To ensure the steadfast and successful implementation of “One Country, Two Systems”, we have to continue to enhance publicity and education towards the public so as to let the general public have an accurate understanding of the Constitution, the Basic Law and “One Country, Two Systems”.

16. The Basic Law Promotion Steering Committee and its five working groups will continue to take forward publicity and education on the Constitution and the Basic Law through diversified approaches, including making full use of electronic media and online platforms (e.g. thematic webinars, and online workshops to be rolled out), continuing to organise physical mobile promotion activities at district and school levels, sponsoring non-governmental organisations or community organisations for staging various promotional activities on the Constitution and the Basic Law or conducting research on the promotion of the Basic Law, etc., with a view to promoting and strengthening the atmosphere of studying and learning the Constitution and the Basic Law in the community.

17. At the same time, the Secretary for Justice is planning to host a Basic Law conference and publish the Basic Law: Selected Drafting Materials and Significant Cases in April next year. On education at the school level, the Citizenship and Social Development subject has been introduced to replace the Liberal Studies subject starting from Secondary Four in the current school year, with “Hong Kong under ‘One Country, Two Systems’ ” as one of the three themes of the subject. To enable teachers of the Citizenship and Social Development subject to have a better understanding of the constitutional status, powers and functions of the Chief Executive under “One Country, Two Systems”, the Chief Executive has expressed that she can give a class to teachers who are interested.

18. Furthermore, Radio Television Hong Kong (RTHK) would play an active role in promoting the Constitution and the Basic Law, so as to enhance public understanding of the implementation of “One Country, Two Systems” in Hong Kong as well as engender a sense of citizenship and national identity amongst members of the public.

### Protection of personal data

19. Since 2019, doxxers have attacked those of different political stances through the indiscriminate disclosure of their personal data, in effect weaponising the personal data concerned. To combat doxxing acts which intrude into personal data privacy, the HKSAR Government introduced the Personal Data (Privacy) (Amendment) Bill 2021 (the Bill) to the LegCo in July this year. The Bill criminalises doxxing acts and confers on the Privacy Commissioner for Personal Data (the Commissioner) statutory powers to issue cessation notices demanding the cessation or restriction of disclosure of doxxing content. The Bill also confers on the Commissioner power to conduct criminal investigation and institute prosecution for doxxing cases, so as to strengthen enforcement against doxxing cases.

20. The Bill was passed by the LegCo on 29 September, and took effect on 8 October following gazettal on the same day. The Office of the Privacy Commissioner for Personal Data (PCPD) will strengthen promotion and education of the content of the legislation to the general public. This will not only curb doxxing offences, but will also enable the public to understand the spirit and requirements of the legislation, so as to facilitate compliance and avoid inadvertent violation of the law.

21. Besides, the HKSAR Government has earlier consulted this Panel on the directions of amendments of the PDPO, including: (1) establishing a mandatory data breach notification mechanism; (2) instituting a data retention period; (3) empowering the Commissioner to introduce an administrative fine; and (4) regulating data processors, etc. Together with the PCPD, we will study in detail and furnish concrete legislative amendment proposals and consult the Panel at an appropriate time. In this process, we will make reference to relevant data protection laws in other jurisdictions and Hong Kong's actual situation, so as to put forward practicable legislative amendment proposals that could better protect personal data privacy.

### Review of anti-discrimination legislation

22. The Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020 and the Sex Discrimination (Amendment) Ordinance 2021 were passed by the LegCo in June 2020 and March 2021 respectively to enhance protection from discrimination and harassment under the four anti-discrimination ordinances (i.e. Sex Discrimination Ordinance (Cap 480) (SDO), Disability Discrimination Ordinance



(Cap 487), Family Status Discrimination Ordinance (Cap 527) and Race Discrimination Ordinance (Cap 602)). Amongst others, the SDO has been amended to strengthen legal protection for breastfeeding women, whereby discrimination and harassment on the ground of breastfeeding in various prescribed areas, such as employment; education; provision of goods, facilities or services, etc., are prohibited with effect from 19 June this year. The EOC has already embarked on publicity and public education, including publication of guidance and booklet introducing the amended ordinances, as well as launch of MTR advertising campaign, TV and radio Announcements on Public Interests (APIs), etc.

23. We will continue to examine the EOC's priority recommendations from its Discrimination Law Review. Amongst others, we are in close liaison with the EOC to study how the anti-discrimination legislation may be enhanced to tackle discrimination or vilification that may be encountered by persons arriving in Hong Kong from the Mainland. We will also study in detail other suggestions raised by LegCo Members on elimination of discrimination, including whether existing protection from sexual harassment under the SDO is sufficient. Our current goal is to strive for determination of the way forward for these recommendations within this term of the Government.

24. Alongside our efforts to enhance legal protection, we will also continue to support the EOC in stepping up its sexual harassment prevention efforts. With additional resources allocated by the HKSAR Government, the EOC has established a designated Anti-Sexual Harassment Unit, which is tasked with conducting a holistic review of the related legal protection, raising public awareness about sexual harassment, and acting as the first port of call for victims of sexual harassment.

#### Promotion of racial equality

25. The HKSAR Government strives to eliminate racial discrimination and safeguard the equal rights of people of different races. In April last year, we have refined the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) for application to all government bureaux/ departments and related organisations (collectively referred to as public authorities) providing services to people of diverse race, making a total of over 100, thereby promoting effectively equal access to public services for people of Hong Kong regardless of their race.

26. Under the revised Guidelines, public authorities are required to proactively offer appropriate translation and interpretation services so that service users who are not able to communicate effectively in spoken or written Chinese or English can have access to public services. Public authorities are also required to collect data from service users of diverse race, and to provide training on racial inclusiveness to frontline staff and new recruits to enhance their sensitivity and understanding of race-related issues. We will closely monitor the implementation of the Guidelines to ensure compliance.

### Eliminating discrimination on grounds of sexual orientation and gender identity

27. The HKSAR Government has all along been striving to promote equal opportunities for people of different sexual orientations and transgenders, with a view to fostering in the community the culture and values of inclusiveness, mutual respect and non-discrimination.

28. On public education and publicity, we are committed to promoting the culture and values of inclusiveness, mutual respect and non-discrimination, including actively introducing to employers the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation (the Code). As of now, over 370 organisations employing nearly 560 000 employees have adopted the Code. We will continue with our efforts in promotion and education via various channels, such as online platforms and seminars.

29. On support services provided to sexual minorities, we subsidise the 24-hour hotline for supporting sexual minorities (i.e. Pride Line) which is operated by the Tung Wah Group of Hospitals (TWGHs) to provide prompt support, counselling and referral services to sexual minorities and their families. Since its establishment in January 2018, the hotline has received over 10 000 calls as at September this year. The TWGHs has also been regularly organising different support group programmes, including emotional management and peer sharing, for sexual minorities. So far, more than 100 programmes have been organised. At the same time, we have increased our subvention to Pride Line for the provision of face-to-face counselling service to sexual minorities and their families.

30. After launching earlier training materials to enhance sensitivity of medical and healthcare professionals towards sexual minorities, we have also introduced training materials for the Government disciplined

services and organised briefing session for representatives of the disciplined services to introduce and illustrate the content of the training materials. We have also arranged a train-the-trainer session for the trainers of the disciplined services to facilitate them to suitably incorporate the training materials into their regular training courses. We will continue to prepare training materials for other sectors such as social workers with a view to enhancing their knowledge of and sensitivity towards sexual minorities.

### Children's rights

31. While working to safeguard equal enjoyment of basic individual rights for all, we particularly care about the protection of children. We have been committed to co-operating with different sectors of the community to promote children's rights. Through the Children's Rights Education Funding Scheme (the Scheme), we encourage and support more organisations to take up educational projects to enhance public (including children) awareness and understanding of children's rights enshrined in the United Nations Convention on the Rights of the Child. Since its establishment in 2006, the Scheme has funded over 400 projects implemented by various organisations which strengthen understanding and respect for children's rights in the community.

### **Conclusion**

32. Members are invited to note the content of this paper.

**Constitutional and Mainland Affairs Bureau**  
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