

Panel on Constitutional Affairs

List of outstanding items for discussion

(position as at 16 January 2013)

**Proposed
timing for
discussion**

1. The question of "important bill" under Article 50 of the Basic Law

The Panel discussed the question of "important bill" under Article 50 of the Basic Law at a number of meetings since late 1999.

To be decided
by the Panel

The Panel noted the Administration's position on the following issues -

- (a) what constitutes an "important bill";
- (b) who determines whether a bill is important;
- (c) when to determine whether a bill is important; and
- (d) procedures and parties involved in the consultations under Article 50.

Given the Administration's position, the Chairman sought the views of members on the way forward at the meeting on 18 July 2005 when the item was last discussed. Hon Audrey EU suggested and members agreed that the item should remain on the outstanding list. At the meeting on 20 November 2006, members noted the background brief on the past discussions of members and developments subsequent to the meeting on 18 July 2005 prepared by the Legislative Council ("LegCo") Secretariat [LC Paper No. CB(2)376/06-07(02)], and expressed no strong view on the timing for discussing the item.

2. Role and development of political parties

The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005.

To be decided
by the Panel

The Administration's position was that the introduction of a political party law would hinder the development of political parties. As one of the means to facilitate the development of political party and political talent, the Administration had increased the financial assistance subsidy rate to candidates in the 2008 LegCo election to \$11 per vote. The subsidy rate for the 2012 LegCo election has been further increased to the lower of \$12 per vote or 50% of the election expenses limit provided that the amount of financial assistance payable would not exceed the declared expenses of candidates. With the passage of the Electoral Legislation (Miscellaneous Amendments) Bill 2011 on 6 July 2011, the financial assistance subsidy rate to candidates in the 2011 District Council ("DC") election has been increased to the lower of \$12 per vote or 50% of the election expenses limit provided that the amount of financial assistance payable would not exceed the declared expenses of candidates. The election expenses limit for the DC election has been increased from \$48,000 to \$53,800.

3. Composition, functions and operation of the Electoral Affairs Commission ("EAC")

On 21 June 2004, the Research Report prepared by the Research and Library Services Division of the LegCo Secretariat ("RLSD") on "Operation of Electoral Regulatory Bodies in Selected Places" [RP04/03-04] was presented to the Panel. Members agreed to further explore the issues raised in the Research Report in future.

To be decided
by the Panel

4. Usage of electoral register

In September 2007, Hon Margaret NG requested the Panel to discuss whether the Administration should review and amend the relevant subsidiary legislation to allow Members returned by election to use the relevant information in the electoral register for communication with their constituents while they were in office, and to require corporate and professional bodies of Functional Constituencies ("FCs") to provide the necessary assistance to FC Members.

To be decided
by the Panel

The Panel followed up the issue at its meetings on 17 November 2007 and 18 February 2008. In response to members' request, RLSD had prepared an Information Note on

"Usage of electoral register" [IN05/07-08] which was considered by the Panel on 18 February 2008. At the meeting, some members expressed the view that the information contained in the electoral register should be released for use for purposes other than a purpose related to an election, e.g. to communicate with electors after the election. Members' views have been relayed to EAC for consideration.

5. Submission of reports by the Hong Kong Special Administrative Region Government to the United Nations under international human rights treaties

The Administration advised in March 2009 that Central People's Government ("CPG") had commenced the preparation of China's combined third and fourth report under the Convention on the Rights of the Child ("CRC"). The Panel discussed the outline of the second report of HKSAR on 16 April 2009 and met with deputations and the Administration on 18 May 2009. The second report of the HKSAR was submitted to United Nations ("UN") in July 2010 as part of the combined third and fourth reports of China and was published by UN in May 2012. In line with established practice, the report will be examined by UN Committee on the Rights of the Child in a future hearing. The hearing schedule is yet to be fixed by UN.

As and when those reports are submitted by China to UN and published [Constitutional and Mainland Affairs Bureau ("CMAB") & LWB]

At the Panel meeting on 18 January 2010, the Administration briefed the Panel on the outline of the topics to be included in HKSAR's third report under the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). The Panel received views from the public on the outline of topics at the meeting on 10 February 2010. The HKSAR's third report which forms part of the second report of China was submitted to UN in June 2010, copies of the HKSAR's third report were made available to the public on 21 October 2010. The Panel discussed the HKSAR's third report at the meeting on 20 December 2010 and members agreed to receive views from the public on the report at a future meeting upon confirmation of the date of the UN hearing.

The Panel received views from the public on the outline of the topics to be included in the HKSAR's third report in the light of the International Covenant on Civil and Political Rights

("ICCPR") on 21 June 2010. The HKSAR's third report has been submitted to UN and copies of the report were made available to the public on 23 September 2011. The Panel discussed the report at its meeting on 21 November 2011. The hearing of the HKSAR's third report by the UN Human Rights Committee has been scheduled for 12-13 March 2013 in Geneva.

China's 10th to 13th combined report under the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD"), of which the report on HKSAR formed a part, was submitted to UN in June 2008. After discussion of the report on HKSAR at its meeting held on 15 December 2008, the Panel further discussed the subject and received views from the public on 15 June 2009. UN hearing was held in August 2009. The Administration briefed the Panel on its initial views on matters raised in the concluding observations on 16 November 2009 and received views from the public on the concluding observations on 11 December 2009.

UN Human Rights Council has initiated a Universal Periodic Review ("UPR") of all UN member states. The hearing on China, which covered HKSAR, was held on 9 February 2009. The Panel discussed the section on HKSAR of the report of CPG to UN on 19 January 2009 and the Administration reported outcome of the UN hearing to the Panel on 7 July 2009. The next report on UPR will be due in 2013.

The reporting responsibility of the third report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women falls under the purview of the Labour and Welfare Bureau ("LWB"). The Panel discussed and received views from the public on the outline of topics to be included in third report on 19 July 2010. The HKSAR report was submitted to UN as part of China's combined seventh and eighth reports in January 2012, and has been made available to the public on the website of LWB and the Public Enquiry Service Centres of District Offices since 24 May 2012. In line with established practice, the report will be examined by UN Committee on the Elimination of Discrimination against Women at a future hearing the date of which is to be fixed.

Before the hearing of the Report by UN [LWB]

Under the Convention on the Rights of Persons with Disabilities, HKSAR (the reporting responsibility falls under the purview of LWB) is required to submit a report as part of China's combined report to UN within two years after the entry into force of the Convention for HKSAR on 31 August 2008, i.e. August 2010. Thereafter, HKSAR is required to submit subsequent reports at least every four years. The Panel discussed and received views from the public on the outline of topics to be included in the initial report at the meeting on 19 March 2010. The HKSAR's initial report was submitted to UN in August 2010 and has been made available to the public on the website of LWB and the Public Enquiry Service Centres of District Offices since 25 November 2010. In anticipation of a UN hearing on China's combined report, the Panel discussed the HKSAR's initial report and met with deputations and the Administration on 18 June 2012. The UN Committee on the Rights of Persons with Disabilities conducted a hearing to consider the China's combined report (including HKSAR's part) from 18 to 19 September 2012. Representatives of the HKSAR Government attended the hearing as part of PRC's delegation. The Panel discussed the Administration's initial response to the concluding recommendations and received views from the public on 17 December 2012.

6. Amendments to the Sex Discrimination Ordinance (Cap. 480) ("SDO") and the Disability Discrimination Ordinance (Cap. 487) ("DDO") proposed by the Equal Opportunities Commission ("EOC")

The Race Discrimination Bill ("RDB") passed on 10 July 2008 has incorporated one of the amendments proposed by EOC, i.e. to extend the definition of sexual harassment in SDO to cover conduct which created a sexually hostile or intimidating environment at an educational establishment. As regards the other amendments proposed by EOC, the Administration has pointed out that some of them are technical amendments and the others might have read-across implications to other anti-discrimination ordinances. EOC has submitted to the Administration a set of revised amendment proposals in August 2011. The Administration would consider the most appropriate way to take forward these proposed amendments and would further report progress to the relevant Panel in due course.

To be confirmed
[CMAB & LWB]

7. Discrimination issues relating to sexual orientation and gender identity

When the Panel discussed the subject on 18 January 2010, the Administration undertook to report progress on the relevant issues to the Panel in due course. To be confirmed

8. Post-office employment control of politically appointed officials

The Panel on Public Service ("the PS Panel") discussed the Report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants ("the Review Committee") at its special meeting on 13 July 2009. The Review Committee has recommended to the Chief Executive ("CE") in its Report that a separate review should be carried out on the post-office employment control of politically appointed officials. The PS Panel has agreed to refer the subject to this Panel for follow-up and requested that its members be invited to join the future discussion of the subject. To be confirmed

9. Abolition of the District Council ("DC") appointment system

The Administration announced on 14 September 2011 that it considered that the DC Appointment System could be abolished in phases by going through a transitional period. The Administration also indicated its intention to reduce by one-third of the number of members to be appointed in the fourth term of the DCs in 2012, i.e. appointing only 68 members instead of 102. After the DC election in November 2011, the Administration would embark on further public discussions as to how this issue should be dealt with, including the duration of the transitional period, how the relevant legal provisions should be dealt with, etc. As to the duration of the transitional period, the Administration was prepared to consider abolishing the remaining 68 appointed seats over one or two term(s). 68 members have been appointed to the DCs starting from the fourth term of DCs which commenced operation on 1 January 2012. 21 January 2013

The Administration briefed the Panel on its Consultation Paper

on the DC Appointment System at the Panel meeting on 20 February 2012, the public consultation period of which ended on 20 April 2012. The Panel received public views on the Consultation Paper at its regular meeting on 19 March 2012.

The Consultation Report on the DC Appointment System was issued on 26 June 2012, summarizing the views received during the public consultation period and setting out recommendations for the consideration of the current Administration.

The Administration would consult the Panel on the abolition of DC Appointment System at its meeting on 21 January 2013.

10. Implementation and review of the Race Discrimination Ordinance (Cap. 602) ("RDO")

The Panel Chairman has received an email from 15 organizations and individuals requesting to give views on the implementation and review of RDO at a Panel meeting. At the meeting on 21 February 2011, the Panel agreed to discuss the subject at a future meeting.

To be confirmed

11. Management of government records

At its meeting on 17 May 2010, the Panel discussed with the Administration and received views from deputations on "Code on access to information and management of public records". At the suggestion of Hon Emily LAU, members agreed at the meeting on 18 April 2011 that the Panel should further discuss the issue relating to management of government records at a future meeting.

To be confirmed
[Admin Wing]

At its meeting on 21 November 2011, members agreed that the Panel should follow up on the relevant issues after the Public Accounts Committee ("PAC") has completed its consideration of Report No. 57 of the Director of Audit, a chapter of which was on records management work of the Government Records Service.

The PAC Report No. 57 was tabled in the Council meeting of 15 February 2012. PAC did not hold any public hearing on this subject, but sought written response to its enquiries. PAC was concerned, among other issues, about the compliance with

mandatory record management requirements by government bureaux and departments, the criteria for selection of archival records and manpower of the Government Records Service etc. PAC noted that there are a number of issues to be sorted out which may be related to the Government's overall policy on records management. The relevant issues have been referred to the Panel for consideration and necessary action.

12. Press freedom

At the meeting on 17 October 2011, members agreed to discuss the Administration's initiatives to safeguard press freedom at a future meeting. The Administration undertook to co-ordinate its response in respect of the media's concerns about its reporting work. To be confirmed

13. Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests

At the meeting on 4 June 2012, the Administration undertook to provide a paper on its plan to implement the recommendations of the report and the relevant time-table. The Administration has provided a paper on the implementation progress which was circulated to members vide LC Paper No. FC136/11-12(01) on 18 June 2012. The Panel agreed to conduct follow-up discussion of the implementation of the recommendations at a future meeting. To be confirmed

At the meeting on 19 November 2012, Ms Emily LAU referred to the Administration's reply letter dated 16 November 2012 to the Panel on the CE's declaration of interests [LC Paper No. CB(2)227/12-13(01)], and proposed that the Panel should follow up on the relevant issues.

At the Council meeting of 5 December 2012, a LegCo question was raised by Hon Dennis KWOK on "Regulatory system for prevention and handling of potential conflicts of interests concerning CE". In her reply, the Chief Secretary for Administration ("CS") explained the implementation progress of the recommendations of the above report, and that the Administration was actively following up the remaining recommendations and would consult LegCo on the findings of

the study regarding the recommendations on amending the Prevention of Bribery Ordinance once there was further progress.

Hon Emily LAU has proposed to follow up on CS' reply to the above LegCo question, and the revisions already made to the Code for Officials Under the Political Appointment System in the light of the recommendations of the report.

14. Functions of the Central Policy Unit ("CPU")

At the meetings on 19 November and 17 December 2012, some members proposed that the Panel should discuss the subject as soon as possible. The Administration advised that an explanation was made by CS regarding the role and functions of CPU, especially on the aspects of coordinating appointments to the advisory and statutory boards and committees, at the special meeting of the House Committee on 23 November 2012 and at the Council meeting of 28 November 2012. The Chairman undertook to relay members' views to CS.

To be confirmed