

# 立法會

## *Legislative Council*

LC Paper No. CB(2)1530/12-13

Ref. : CB2/PL/CA

### **Report of the Panel on Constitutional Affairs for submission to the Legislative Council**

#### **Purpose**

This report gives an account of the work of the Panel on Constitutional Affairs during the 2012-2013 Legislative Council ("LegCo") session. It will be tabled at the Council meeting of 10 July 2013 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

#### **The Panel**

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining Government policies and issues of public concern relating to implementation of the Joint Declaration and the Basic Law ("BL"), relations between the Hong Kong Special Administrative Region ("HKSAR") Government and the Central People's Government ("CPG") and other Mainland authorities, electoral matters, district organizations, human rights, personal data protection and press freedom. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 38 members, with Hon TAM Yiu-chung and Hon Paul TSE elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

#### **Major work**

##### Constitutional development

4. The Panel was keenly concerned about the methods for forming LegCo in 2016 and for selecting the Chief Executive ("CE") in 2017 ("the two electoral methods"). Some members had repeatedly urged the Administration to provide a timetable for public consultation on the two electoral methods. These members considered that given the need to go through the "five-step mechanism" for introducing any amendment to the relevant legislation governing the two electoral methods, the public consultation exercise should

commence as soon as possible and the Administration should provide a roadmap and timetable for implementing the constitutional reform.

5. The Administration assured members 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 BL and the Decision adopted by the Standing Committee of the National People's Congress in December 2007. The Administration would consult various sectors of the community including LegCo and initiate the constitutional procedures at an appropriate juncture. Members were assured that sufficient time would be allowed for the public consultation and the legislative process.

6. Some members expressed dissatisfaction with the lack of detailed information on constitutional development in the 2013 Policy Address. In anticipation that the local legislative process of the CE Election by universal suffrage would entail more complicated issues than previous CE elections, some members stressed that a lot more time would be required to facilitate a thorough discussion on such a contentious issue. The Administration advised that prior to the CE Election in 2017, a nominating committee should be formed by the end of 2016. Using the experience of the Election Committee as reference, the provisional and final registers of the voters for members of the Nominating Committee election (if an election was required to form the Nominating Committee) would have to be published in May and July 2016 respectively, and relevant subsidiary legislation would have to be made by the Electoral Affairs Commission ("EAC") beforehand. Some members asked whether the Administration would introduce legislation in one go to implement dual universal suffrage. The Administration pointed out that it would be for the fifth term CE to deal with the universal suffrage model for LegCo in 2020 as the current-term Government had only been authorized to deal with the arrangements for the LegCo Election in 2016 and the CE Election in 2017. Nevertheless, the current-term Government would consolidate any views received on the method for forming LegCo in 2020, and would recommend the next-term Government to follow up the views.

7. To facilitate members' deliberation on the nomination procedures and electoral arrangements for the 2017 CE Election, the Panel has requested the Research Office of the LegCo Secretariat to conduct a research study on the nomination and voting procedures governing presidential elections in selected places. The Panel will deliberate further the relevant issues upon completion of the research study.

## The 2012 LegCo Election

### *EAC Report on the 2012 LegCo Election*

8. The Panel was briefed on the major findings and recommendations in the Report on the 2012 LegCo Election submitted by EAC to CE in accordance with the EAC Ordinance (Cap. 541). The Report contained a review of relevant electoral arrangements and improvement measures for the conduct of future elections.

9. Some members expressed concern that some electors had reflected that the polling staff were not fully familiar with the polling and voting arrangement for functional constituency ("FC") elections. For example, there were cases where registered geographical constituency ("GC") electors were not given District Council ("DC") (second) FC ballot papers but only GC ballot papers in the 2012 LegCo Election. Besides, for the four special FCs which were subject to a different voting arrangement (i.e. the "preferential elimination system" under which an elector was to use the pen provided to mark the ballot paper), some electors were not provided with the pen to indicate their preferences and had to use the chop (which was provided solely for the GC election) to stamp a 'tick' on the FC ballot paper. As a result, this had rendered their votes invalid.

10. With regard to the above cases involving non-provision of DC (second) FC ballot papers to the electors, the Registration and Electoral Office ("REO") explained that it could be due to the fact that the elector concerned was already a registered elector of a traditional FC. Another possible reason was that the elector concerned had been an elector of a traditional FC but he later became ineligible for reasons such as change of membership in the specified bodies and it was too late to put him back as an elector of DC (second) FC. REO undertook to consider whether any changes should be made to the future arrangements to cater for these situations. REO advised that only a small number of such complaints had been received. The Administration advised that before the election, REO had provided necessary training to all polling staff on the ballot paper issuing procedures and particular emphasis was given to the new DC (second) FC ballot paper and the need to be careful when issuing ballot papers to electors. REO undertook to continue to enhance the training of polling staff on all major aspects of the ballot paper issuing procedures.

11. With regard to the new arrangement for candidates to post joint promotional letters using the free-of-postage facility, some members questioned how it could economize on the use of paper. REO explained that the arrangement was intended to allow greater flexibility for candidates/lists of candidates to jointly promote themselves in multiple-seat constituencies and constituencies with overlapping electorate (as in the case of GC and DC (second) FC). While the arrangement was at the same time expected to help reduce the

consumption of paper, REO acknowledged that, judging from the experience in the 2012 LegCo Election, as all contesting candidates had utilized their entitlement to sending a free election mail to electorates, the effect of reducing paper consumption was not apparent. Some members considered that the arrangement only favoured large political parties contesting in both GC and FC elections and was unfair to independent candidates and small political parties.

### *Election forums*

12. In the 2012 LegCo Election, EAC received a total of 38 complaints which were specifically about the conduct of election forums organized by broadcasters, as compared with only three such complaints received in the 2008 LegCo Election. According to the Administration, the increase in the number of complaints warranted consideration of (a) whether there was a need for guidelines to be specifically drawn up to regulate the production and broadcasting arrangements, and (b) whether forum organizers should be given more freedom in inviting some or all candidates to their election forums, especially when the number of candidates contesting might be very large in future elections.

13. Some members considered it not necessary to provide specific guidelines on the production and broadcasting arrangements for election forums as long as the principle of "fair and equal treatment" was complied with, so as to maintain editorial independence and ensure that no unfair advantage should be offered to any candidate over others. Some other members, however, considered that the forum organizers should be given more freedom in inviting candidates to the forums as they might wish to ensure that sufficient time could be allocated to each candidate to articulate his/her election platform at the election forums. As members had diverse views on the issues involved, the Administration was requested to consider consulting the views of the media organizations as well in mapping out the future arrangements.

### Fallback day arrangements for LegCo, DC and Village Representative ("VR") elections

14. The Panel was consulted on the Administration's proposal to change the fallback day arrangements for LegCo, DC and VR elections from two days to 14 days, in the event that it would be necessary to postpone the election or postpone/adjourn the poll or the count due to an occurrence which appeared to be a material irregularity relating to the election, the poll or the count. According to the Administration, the proposal was put forward as REO had confirmed that there were insurmountable practical difficulties, such as constraints in the availability of venues for polling/counting and of electoral staff and other logistical constraints, to implement the two-day fallback arrangement. Members in general were supportive of the proposal. In order to

facilitate voting by electors, some members held the view that the postponed election or adjourned poll should be held either on a Sunday or on a public holiday. REO explained that it was already an established practice to hold elections on Sundays for the convenience of electors, and REO would stick to this arrangement in holding/resuming the postponed/adjourned poll.

15. Some members also expressed concern whether the Administration would, in the situation of riots or open violence, postpone the whole election or only temporarily close the affected polling stations. The Administration advised that only the affected polling stations would be closed in case of occurrence of localized violence.

#### Abolition of DC appointment system and review of the number of elected seats of DCs

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16. The Panel was consulted on the Administration's proposal to abolish all the appointed seats of DCs with effect from 1 January 2016, i.e. the commencement date of the fifth term of office of DCs. Members in general expressed support for the proposal. Some members, however, considered that the Administration should also abolish the ex officio seats in DCs in tandem with the appointed membership in one go so that DCs would comprise all directly elected members. The Administration advised that public opinions differed on whether to retain the ex officio seats in DCs, and individuals and organizations representing residents of the New Territories supported the retention of ex officio seats. On these bases, the Administration had no plan at present to abolish the ex officio seats in DCs.

17. Some members urged the Administration to duly consider the impact of the proposed abolition of the appointed seats on the operation of DCs, and to review the number of elected seats and the demarcation of the constituency boundaries for the fifth term DCs as early as possible. The Administration advised that the number of elected seats was based on a population quota<sup>1</sup> (now stands at 17 282). On the basis of the latest population distribution projections made by the Planning Department, the Constitutional and Mainland Affairs Bureau would work out the number of elected seats for each DC taking into account the population quota and other relevant considerations. If the review outcome recommended adjustments to be made to the number of elected seats, the DC Ordinance (Cap. 547) would be amended accordingly in another legislative exercise. Subsequently, EAC would take into account the latest number of elected seats for each DC in its demarcation of the DC constituency areas ("DCCAs") for the DC election in 2015.

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<sup>1</sup> Section 17(1)(b) of the EAC Ordinance stipulates that the population quota means the total population of Hong Kong divided by the total number of elected members to be returned in the DC ordinary election.

18. The Administration introduced the DC (Amendment) Bill 2013 into LegCo in February 2013. Following passage of the Bill in May 2013, the Administration consulted the Panel on its review of the number of elected seats for the fifth term DCs. According to the Administration, the total population of Hong Kong in mid-2015 was projected to be around 7 311 300. By applying the population quota of 17 282, 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. Some members considered that the population of existing DC constituencies was so small that DC members lacked representativeness. They suggested raising the population quota by merging some DCCAs and adopting the proportional representation system for returning DC members, so as to make DC members answerable to electors of larger constituencies and broaden their vision. The Administration considered that 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.

19. Some members also expressed concern whether there would be realignment of the DC boundaries so as to reduce the disparity of elected DC membership among DCs, e.g. the elected membership of Wan Chai DC and Eastern DC was 11 and 37 respectively. The Administration advised that subject to the passage of the subsidiary legislation to amend the number of elected seats for DCs concerned by the end of 2013, EAC would commence review of the DC constituency boundaries for the 2015 DC Election in early 2014. The Administration assured members that sufficient time would be allowed for consulting the public during the review.

#### Voter registration

20. In response to the concerns of the public and the Panel that some electors were suspected to have made false declaration of their residential addresses during the 2011 DC Election, the Administration conducted a review of the existing voter registration system in late 2011 and a series of enhanced checking measures were then implemented by REO with a view to improving the accuracy of the voter registers. In the light of the implementation experience of the enhanced measures in the 2012 voter registration cycle, REO had reviewed and fine-tuned the strategy to be adopted in the 2013 voter registration cycle. The Administration briefed the Panel on the work undertaken by REO for the 2013 voter registration cycle and the related publicity work.

21. Some members expressed concern about the removal of some 217 000 electors' names from the final registers of electors for 2012 and queried whether the enhanced checking measures were over-stringent. REO assured members that it had strictly followed the relevant statutory procedures in the implementation of the checking measures. Each of electors concerned had received two to three checking/inquiry/reminder letters from REO before they were removed from the final register in accordance with the relevant electoral legislation. REO had endeavored to strike a balance between upholding the accuracy and integrity of the voter registration system and safeguarding a person's voting right as far as possible.

22. Some members pointed out that some electors who had received inquiry letters from REO had encountered practical difficulties in meeting the statutory deadline for reinstatement of registration. They suggested shortening the period for voter registration so as to allow more time for the reinstating process. REO explained that if the statutory deadline was deferred, the date on which the final register would be published might also need to be deferred. As a result, less time would be allowed for candidates to conduct the electioneering activities.

23. With reference to the court case of *Chong Wing Fai Winfield v Cheung Kwok Kwan and Another* (HCAL10/2012) where it was ruled that there was no provision to bar or disqualify an elector from voting even though he had moved to a new address without informing REO, members asked whether the judgment would have any implication on the existing voter registration policy. The Administration explained that the judgment was not expected to have any implications on the existing policy or the voter registration work. However, the Administration would strengthen publicity efforts in the 2013 voter registration cycle to encourage timely updating of registered particulars so that REO could update and keep the relevant registers of electors most accurate. To this end, REO had earmarked \$6.7 million for the publicity measures in the 2013 voter registration cycle, which was about three times of the amount typically earmarked for the voter registration drive in a non-election year. The Panel would discuss the 2013 Provisional Register of Electors and related matters at its regular meeting in July 2013.

#### Personal data protection

##### *Work of the Office of the Privacy Commissioner for Personal Data ("PCPDO")*

24. The Panel received a briefing by the Privacy Commissioner for Personal Data ("the Privacy Commissioner") on an update of PCPDO's work. The Panel noted that the number of enforcement notices issued by the Privacy Commissioner had increased from one in 2011 to 11 in 2012, which was mainly due to the implementation of the relevant provisions of the Personal Data

(Privacy) (Amendment) Ordinance 2012 on 1 October 2012 providing the Privacy Commissioner with enhanced power to serve enforcement notices. Some members expressed concern as to whether PCPDO had sufficient resources to cope with the anticipated increases in service demand.

25. The Privacy Commissioner informed members that his Office faced inadequate resources such as that, of the existing 79 staff members of his Office, only 64 posts were provided with recurrent funding by the Administration whereas the remaining 15 posts had to be funded through redeployment of other resources within PCPDO. This arrangement had adversely affected complaint investigation and other areas of work such as promotional activities, education and research. There was case backlog which had led to lengthening of the processing time of cases. The number of cases closed within the timeline of 180 days had dropped from 94% in 2010 to 88% in 2011 and 2012. The Panel urged the Administration to provide additional resources to PCPDO so as to strengthen protection of personal data privacy. The Administration undertook to monitor the situation and suitably increase the subvention for PCPDO in 2013-2014.

26. Some members asked the Privacy Commissioner whether PCPDO would follow up with overseas Internet service providers/platforms (e.g. Facebook, instagram, etc.) to regulate the data protection of overseas data users. The Privacy Commissioner advised that in respect of these service providers which were based in overseas places where PCPDO had no enforcement power, he would partner with overseas privacy authorities to carry out data protection enforcement. A notable achievement in 2012 was related to Google's new privacy policy. Through the Technology Working Group of the Asia Pacific Privacy Authorities, the Privacy Commissioner had initiated dialogue and exchange of correspondence with Google and was able to secure their clarifications and improvements to their new privacy policy as a result. As regards Facebook which was a US-based enterprise, the Privacy Commissioner had relied on its overseas counterparts in following up investigations into the enterprise's privacy practices. As a result, the enterprise had to pay a substantial financial penalty and to implement a comprehensive privacy programme which included regular independent privacy audits.

27. The Panel noted the Privacy Commissioner's proposal to put on hold the Data User Returns Scheme ("DURS") and to adopt the privacy management program as an interim measure. Some members queried the rationale for the Privacy Commissioner's decision. The Privacy Commissioner emphasized that DURS would not be abandoned for good, but would be reconsidered for adoption by Hong Kong in the light of the developments of EU in reforming DURS. DURS was only put on hold until the reforms in EU had been finalized so that useful lessons could be learnt from the exercise.

### *Personal Data (Privacy) (Amendment) Ordinance 2012*

28. The Personal Data (Privacy) (Amendment) Ordinance 2012 was passed on 27 June 2012. All the provisions in the Amendment Ordinance have come into operation since 1 October 2012, with the exception of sections 20, 21, 38(2), 39 and 43 which were related to the new regulatory regime for direct marketing activities as well as the new legal assistance scheme. The Administration and the Privacy Commissioner briefed the Panel on the preparatory work for bringing the remaining five sections into operation on 1 April 2013. Members noted that much preparatory work had been carried out by PCPDO to help businesses get prepared for the implementation of the new regulatory regime. The Panel urged the Administration to provide adequate resources to PCPDO to support the launch of the legal assistance scheme and to cope with the expected increase in workload arising from the implementation of the new regulatory regime for direct marketing activities.

### Equal Opportunities Commission ("EOC")

29. The Panel received a briefing by Dr York CHOW, who assumed office as the Chairperson of EOC on 1 April 2013, on the work of EOC at the meeting on 17 June 2013. The Panel noted the five priority areas of work identified by EOC, which are (a) the Discrimination Law Review ("DLR"), (b) study and public consultation on legal protection for sexual minorities from discrimination on the basis of sexual orientation and gender identity, (c) education and employment opportunities for ethnic minorities, (d) integrated education for students with special educational needs and its impact on employment opportunities, and (e) disability discrimination in the performance of government functions. In addition, EOC would allocate due resources to the ongoing Anti-sexual Harassment Campaign, review of the Code of Practice on Employment under the Sex Discrimination Ordinance ("SDO") (Cap. 480), and follow-up on the Formal Investigation Report on Accessibility in Publicly Accessible Premises.

30. Some members expressed concern whether the public consultation on legal protection for sexual minorities from discrimination would be undertaken only after the conduct of DLR which was expected to be comprehensive. The EOC Chairperson advised that both consultation exercises were preliminarily scheduled for 2014. After consultation with stakeholders and the public, EOC would consider the views collected and submit its recommendations to the Government. The EOC Chairperson also referred to the judgment of the Court of Final Appeal for the plaintiff known as "W" for the right to marry in her identified gender, and advised that EOC welcomed the judgment and had called on the Government to take prompt action to address the legal issues involved including review of the Marriage Ordinance (Cap. 181) and the Matrimonial Causes Ordinance (Cap. 179) as recommended by the Court.

31. The Panel was also briefed on the EOC's proposal to expand the scope of protection against sexual harassment under SDO to cover customers harassing service providers. Members in general welcomed the Administration's plan to further examine the issues involved in taking forward the legislative amendments. Some members urged the Administration to introduce the legislative amendments as early as possible in order to afford effective protection to the victims concerned. In response to the strong call of the Panel, the Administration advised that the relevant legislative amendments would be introduced as early as possible in the next legislative session.

### Human rights reports

32. The third report of HKSAR under the International Covenant on Civil and Political Rights ("ICCPR") was submitted to the United Nations ("UN") in 2011. The Panel discussed the HKSAR's third report with deputations and the Administration. Some members strongly considered that the Administration should not postpone conducting public consultation on whether legislation should be enacted to protect people of different sexual orientations against discrimination. They highlighted that a survey in November 2012 found that 63.8% of the respondents supported enacting such legislation, whereas only about 14% of the respondents were against it. These members also requested the Administration to take active measures and step up public education to eliminate the misunderstanding of some people that enacting such legislation would result in "reverse discrimination". Some members, however, considered that public views were divided on whether legislation should be enacted to prohibit discrimination on the ground of sexual orientation, and urged the Administration to handle this controversial issue with prudence.

33. The Administration explained that while the Government had no plan at present to conduct public consultation given the controversial nature of the issue, the Administration would make sustained efforts in the promotion of equal opportunities for people of different sexual orientations and transgendered persons through public education and publicity. The Administration would increase provision for this area of work. Also, the Administration would study the relevant legislative and administrative measures adopted by overseas jurisdictions, and it was planning to establish a new platform<sup>2</sup> to exchange views with different stakeholders on this issue.

34. In its concluding observations published on 28 March 2013 after consideration of the HKSAR's third report under ICCPR, the UN Human Rights

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<sup>2</sup> The Constitutional and Mainland Affairs Bureau announced on 10 June 2013 the setting up of the Advisory Group on Eliminating Discrimination against Sexual Minorities, with Professor Fanny Cheung Mui-ching as Chairperson.

Committee expressed concern about the lack of a clear plan to institute universal suffrage and to ensure the right of all persons to vote and to stand for election without unreasonable limitations. Some members urged the Administration to formulate proposals on the CE election in 2017 for public consultation as quickly as possible. The Administration advised that BL clearly states that universal suffrage of CE and of all LegCo Members is the ultimate aim of Hong Kong's constitutional development. The Administration would launch a comprehensive consultation and initiate the constitutional procedures at an appropriate juncture.

35. The Panel received public views on the outline of the HKSAR's Report which would form part of the CPG's Report for submission to UN under its Universal Periodic Review mechanism. Some members suggested that the HKSAR's Report should put more weight on the major challenges faced by HKSAR, such as the protection of people with different sexual orientations from discrimination, conflicts between Hong Kong and Mainland residents, upholding judicial independence, and the Administration's measures to meet up the challenges. The Administration advised that although there was a constraint on the length of the HKSAR's Report which was limited to three pages, the Administration would take into account the views of members and deputations in drafting the Report to ensure that various key areas of concern were covered.

36. The initial report of HKSAR under UN Convention on the Rights of Persons with Disabilities was submitted to UN in August 2010. The UN Committee on the Rights of Persons with Disabilities ("UNCRC") conducted a hearing to consider the China's combined report (including HKSAR's part) in September 2012. The Panel discussed the concluding observations of UNCRC with deputations and the Administration. The Panel urged the Administration to address the shortage of sign language interpreters and take active measures to meet the educational needs of children with hearing impairment in order to facilitate their development and integration into the community. Some members requested the Administration to actively follow up UNCRC's recommendations on strengthening the authority of the Commissioner for Rehabilitation and on introducing an independent monitoring mechanism that involved the active participation of persons with disabilities and their representative organizations.

37. The second report of HKSAR under the Convention on the Rights of the Child ("CRC") was submitted to UN in July 2010 as part of the combined third and fourth reports of China. The Panel discussed the HKSAR's second report with deputations and the Administration. Some members expressed dissatisfaction with the Administration's refusal to set up an independent Children's Commission despite the passage of a motion by LegCo requesting for the setting up of such a Commission in June 2007 and the UN Committee on the

Rights of the Child's recommendation in 2005 of the establishment of a human rights institution in HKSAR for the monitoring of children's rights and the implementation of CRC. These members queried how the Administration would ensure the allocation of adequate resources and enactment of necessary legislation to safeguard the rights of children in the absence of a Children's Commission. The Administration explained that the Family Council established in December 2007 provided a suitable platform for deliberation of issues related to children's rights. The Administration considered that the operation of the existing mechanism was largely satisfactory and there was no need to set up a Children's Commission.

38. Members shared the concerns expressed by the deputations about the educational needs of vulnerable children, including children with disabilities, ethnic minority children, children from single-parent or new arrival families and children with specific learning difficulties. They called on the Administration to make improvements to the education system which had been criticized to have exacerbated the widening gap between the rich and the poor. Members were particularly concerned about recent surveys which found that the admission rate of children from grass-roots families to universities was much lower than that of well-off children. They urged the Administration to allocate additional resources to promote development of children from grass-roots families and enable upward mobility in the community. Some members also expressed concern about the problem of children suicide and the need to regulate the working hours of children aged between 15 and 18 working in the non-industrial sector.

39. The Administration advised that the current term Government had reinstated the Commission on Poverty, which was striving to set a poverty line to help address the problem of intergeneration poverty. Besides, the Child Development Fund with a funding of \$300 million was currently supporting some 40 pioneer projects aimed to benefit children with disabilities, ethnic minority children and children in poverty. Members were also briefed on a number of policy initiatives taken to address the difficulties encountered by non-Chinese speaking children in learning the Chinese language in order to facilitate their integration into the society.

#### Public consultation on stalking

40. The Panel discussed the outcome of the public consultation launched by the Administration from December 2011 to March 2012 on the recommendations put forward by the Law Reform Commission ("LRC") in its Report on Stalking. The issues involved included the need for legislation against stalking, offence of harassment, penalty and defences. The Administration advised that of the 506 written submissions received, about 46%

supported the introduction of an anti-stalking legislation and about 35% opposed, while the remaining did not indicate any general support/objection.

41. On the need for anti-stalking legislation, some members considered that, instead of having a single piece of anti-stalking legislation, the Administration should consider introducing separate legislative measures to deal with specific problems, such as stalking behaviours relating to domestic violence, debt collection, and intrusion into the private life of celebrities. These members expressed concern that the proposed anti-stalking legislation would have adverse impact on press freedom and freedom of expression, and would hamper legitimate journalist activities. They suggested that the Administration should act on the recommendations of the Report on Stalking in relation to the enhancement of protection for women against domestic violence, before considering how to take forward the remaining recommendations regarding the work of the media.

42. The Administration advised that in the absence of anti-stalking legislation, a stalker could be prosecuted only if his act constituted a criminal offence but stalking might occur without a breach of the peace or threats of violence; and mere watching, besetting or persistently following would not render the stalker criminally liable. On the other hand, to legislate against stalking in a specific context would not resolve entirely the problem because many stalkers (e.g. those with psychological problem) bore no relation to the victims.

43. The Panel noted that the views received on the consultation paper were varied and diverse, and the Administration did not have a timeframe for taking forward LRC's recommendations. The Panel urged the Administration to ensure that a suitable balance be struck between affording better protection to victims of stalking and ensuring that legitimate and proper news-gathering activities, public protest and assembly, debt collection, etc., would not be adversely affected.

## **Meetings**

44. From October 2012 to end of June 2013, the Panel held a total of nine meetings.

**Legislative Council**

**Panel on Constitutional Affairs**

**Terms of Reference**

1. To monitor and examine Government policies and issues of public concern relating to implementation of the Joint Declaration and the Basic Law, relations between the Hong Kong Special Administrative Region Government and the Central People's Government and other Mainland authorities, electoral matters, district organizations, human rights, personal data protection and press freedom.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

## Panel on Constitutional Affairs

## Membership list for 2012-2013 session

<b>Chairman</b>	Hon TAM Yiu-chung, GBS, JP
<b>Deputy Chairman</b>	Hon Paul TSE Wai-chun, JP
<b>Members</b>	Hon LEE Cheuk-yan Dr Hon LAU Wong-fat, GBM, GBS, JP Hon Emily LAU Wai-hing, JP Hon Jeffrey LAM Kin-fung, GBS, 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, SBS, JP Hon WONG Kwok-kin, BBS Hon IP Kwok-him, GBS, JP Hon Mrs Regina IP LAU Suk-yeet, GBS, JP Hon Alan LEONG Kah-kit, SC Hon LEUNG Kwok-hung Hon WONG Yuk-man 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 (since 18 February 2013) Hon MA Fung-kwok, SBS, JP 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 Hon SIN Chung-kai, SBS, 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

(Total : 38 members)

**Clerk** Ms Joanne MAK

**Legal Adviser** Mr Kelvin LEE

**Date** 2 July 2013