

立法會
Legislative Council

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LC Paper No. CB(2)1495/13-14
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 17 February 2014, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Frederick FUNG Kin-kee, SBS, 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-ye, 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
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok

Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, JP
Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen

**Members
absent** : Hon Michael TIEN Puk-sun, BBS, JP
Hon CHAN Yuen-han, SBS, JP
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon CHUNG Kwok-pan

**Public Officers
attending** : Item III

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

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

Mr LI Pak-hong
Chief Electoral Officer
Registration and Electoral Office

Mr Eric CHAN Sui-wai
Assistant Director of Film, Newspaper and Article Administration
Office for Film, Newspaper and Article Administration

Item IV

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

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

Mr Stephen YIP Yam-wing
Principal Assistant Secretary (Curriculum Development)
Education Bureau

Mr Vincent TANG Chi-leung
Assistant Director (Policy Support)
Housing Department

Mr CHOW Wing-hang
Principal Assistant Secretary for Labour and Welfare (Welfare)
Labour and Welfare Bureau

Mr Vernon LOH
Senior Government Counsel
Department of Justice

Miss Christina WONG Lai-heung
Senior Administrative Officer (Policy Support)
Labour Department

Mr Michael YAU Lok-fung
Assistant Secretary for Constitutional and Mainland Affairs

**Attendance by : Item IV
invitation**

Session One

Hong Kong Confederation of Trade Unions

Mr POON Man-hon
Policy Researcher

The Society for Truth and Light

Mr CHOI Chi-sum
General Secretary

International Domestic Workers Federation

Ms IP Pui-yu
Regional Coordinator (Asia)

Amnesty International East Asia Regional Office

Mr Robert GODDEN
Asia-Pacific Campaign Coordinator

PathFinders Limited

Ms Kay McARDLE
Chief Executive Officer

The Democratic Party

Mr Ricky OR

Amnesty International Hong Kong

Ms Debbie TSUI
Campaigner

Social Value Defence Alliance

Mr CHEUNG Chun-fung
Secretary

Equal Opportunities Commission

Mr CHU Chung-man
Head, Policy & Research

Family School Sodo Concern Group

Mr Roger WONG
Convener

Hong Kong Refugee Advice Centre

Ms Aleta MILLER
Executive Director

Hong Kong Human Rights Monitor

Ms Astor CHAN Wai-sim
Chairperson

Hong Kong Unison

Miss Annie LI
Campaign Officer

Pink Alliance

Mr Billy R LEUNG
Outreach Officer

Hong Kong Committee on Children's Rights

Ms Billy WONG
Executive Secretary

葵涌區居民低收入關注組

Miss LEUNG Wing-ting
Member

葵涌東北劏房戶關注組

Mr Minhas Rashad
Member

Session Two

葵涌劏房住客聯盟

Ms LIU Lai-xiang
Member

葵涌劏房戶關注組

Ms LI Hiu-kwan
Member

葵涌劏房居民聯席

Mr NG Kwan-lim
Spokesperson

Rainbow of Hong Kong

Mr Jimmy SHAM
Spokesperson

Rainbow Action

Mr Tommy JAI
Spokesperson

Transgender Group

Ms Angel TSANG Hon-wai
Spokesperson

Women Coalition of HKSAR

Miss YEO Wai-wai
Spokesperson

Nu Tong Xue She

Mr CHUNG Chi-ho
Officer

基層住屋小組

Mr LAI Kin-kei
Member

灣仔基層房屋權益組

Ms YANG Gui-shu
Member

東區住屋組

Ms NG Ho
Member

東區住屋關愛小組

Ms WAN Yu
Member

灣仔基層住屋權益組

Mr YIP Chut-kin
Member

關注基層住屋聯席

Ms CHAN Hoi-chi
Organizer

Mr LEE Tak-hung

Mr WONG Kai-yeung

Transgender Resource Center

Miss Joanne LEUNG
Chairperson

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

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2) 3

Ms Wendy LO
Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

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I. Information papers issued since the last meeting
[LC Paper No. CB(2)790/13-14(01)]

The Panel noted that after the last meeting, a paper entitled "Report on the work of the Office of the Privacy Commissioner for Personal Data in 2013" [LC Paper No. CB(2)790/13-14(01)] had been issued to members.

II. Items for discussion at the next meeting
[LC Paper Nos. CB(2)850/13-14(01) and (02)]

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2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 17 March 2014 at 2:30 pm -

- (a) voter registration in 2014; and
- (b) briefing by the Privacy Commissioner for Personal Data.

3. Ms Emily LAU asked when the Panel would be consulted on the respective recommendations on the constituency boundaries for the 2015 District Council ("DC") Election and the 2016 Legislative Council ("LegCo") Election. Chief Electoral Officer of the Registration and Electoral Office ("REO") responded that the Electoral Affairs Commission ("EAC") had started considering the DC constituency boundaries for the 2015 DC Election. EAC's provisional recommendations would be made available for public consultation in June 2014. Depending on the progress of the exercise, arrangement could be made for reporting the recommendations to the Panel as appropriate in accordance with past practice. Deputy Secretary for Constitutional and Mainland Affairs said that public views were being sought on the method for forming LegCo in 2016 for the time being, which included, inter alia, issues relating to the number of geographical constituencies ("GCs") and number of seats in each GC. He said that subject to the outcome of the public consultation, EAC's recommendations on the GC boundaries would be drawn up.

4. Referring to items 11 (i.e. "Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests") and 13 (i.e. "Guidelines for the Chief Executive in handling potential cases of conflict of interest and acceptance of advantages and entertainment concerning politically appointed officials") on the List of outstanding items for discussion, Ms Emily LAU asked when the Administration would be in a position to revert to the Panel on the subject matters, and proposed that both items could be discussed by the Panel at the same meeting. Under Secretary for Constitutional and Mainland Affairs ("USCMA") undertook to follow up Ms LAU's request.

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III. Revision of certain fees under the policy areas of the Constitutional and Mainland Affairs Bureau

[LC Paper No. CB(2)850/13-14(03)]

5. USCMA briefed members on the fee revision proposals as detailed in the Administration's paper [LC Paper No. CB(2)850/13-14(03)].

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Discussion

6. Ms Cyd HO said that she had no strong view on the proposed fee revisions under the Registration of Local Newspapers Ordinance, Cap. 268 ("RLNO") as the proposed amount of increase was not substantial. However, she considered the proposed photocopying fee for election returns under the Elections (Corrupt and Illegal Conduct) Ordinance, Cap.554 ("ECICO") (i.e. from \$0.5 to \$1.1 per copy) too expensive. She further said that the standard rate for general photocopying services in the Government (i.e. \$1.1) was also too high which was about three-fold of the costs charged by some photocopying shops. She urged the Administration to review its standard rate of copying charges and avoid setting it too high. She pointed out that sometimes the public had no choice but to use the photocopying services provided by the Government in circumstances such as making copies of official documents which could not be taken away from the Court and of election returns.

7. USCMA explained that the proposed copying fee for election returns charged by REO was to align with the standard fee for general photocopying services in the Government. He advised that it was the established policy of the Government that fees charged of Government services should in general be set at levels adequate to recover the full cost of providing the services, i.e. the "user pays" principle. Hence, it would not be appropriate for REO to adopt other different principles in setting photocopying fee levels, while the "user pays" principle was adopted by other Government bureaux/departments. He added that the copying fee for election returns had not been revised for more than 10 years. The Chairman requested USCMA to convey Ms HO's views to the Administration for consideration of the need to review the existing charging mechanism for general photocopying services in the Government.

8. Mr YIU Si-wing expressed concern about the large discrepancy in the cost recovery rate for different fee items after the proposed fee revisions under RLNO, ranging from 43% to 85%. He suggested that consideration could be given to setting a standard cost recovery rate, e.g., 80% for all items. For those fees with an existing cost recovery rate of less than 80%, they should be increased on a gradual basis to achieve the standard rate. He further suggested that fee revisions should be conducted on a more regular basis to avoid a steep fee increase in one go. USCMA agreed to give thought to Mr YIU's suggestions.

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IV. The third report of the Hong Kong Special Administrative Region ("HKSAR") under the International Covenant on Economic, Social and Cultural Rights ("ICESCR")

[LC Paper Nos. CB(2)850/13-14(04) and (05)]

Presentation of views by deputations

The Society for Truth and Light ("STL")

[LC Paper No. CB(2)850/13-14(06)]

9. Mr CHOI Chi-sum presented the views of STL as detailed in its submission. He said that STL considered that legislation should not be used as a tool to force people to accept homosexuality. It was also concerned that if legislation to prohibit discrimination against persons on the ground of sexual orientation was enacted, it would create "reverse discrimination" against people who did not accept homosexuality.

International Domestic Workers Federation

[LC Paper No. CB(2)923/13-14(02)]

10. Ms IP Pui-yu presented the views of International Domestic Workers Federation as detailed in its submission. She called on the Administration to appeal to the Central People's Government to sign the Domestic Workers Convention so as to safeguard the rights of foreign domestic helpers ("FDHs") in Hong Kong. Hong Kong and FDHs' home countries should also make joint efforts in combating illegal practices in employment and overcharging by employment agencies. She also urged the Administration to consider abolishing the "two-week rule" and review the Employment Ordinance.

Amnesty International East Asia Regional Office

[LC Paper No. CB(2)850/13-14(07)]

11. Mr Robert Godden presented the views of Amnesty International East Asia Regional Office as detailed in its submission. He called on the Government to repeal the "two-week rule", extend the Minimum Wage Ordinance to cover FDHs, and sanction placement agencies which charged FDHs excessive fees, etc.

PathFinders Limited

12. Ms Kay McArdle expressed concern that some FDHs had been unlawfully terminated employment due to pregnancy, but the "two-week rule"

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had rendered it impracticable for them to seek legal redress as the period of stay was too short. She called on the Government to ensure that pregnant FDHs should receive the same legal protection as local pregnant workers. She also urged the Government to ensure pregnant FDHs' rights and access to essential maternal/perinatal healthcare services.

The Democratic Party

[LC Paper No. CB(2)923/13-14(03)]

13. Mr Ricky OR presented the views of the Democratic Party as detailed in its submission. He called on the Government to take steps to implement the recommendations made by the United Nations Committee on Economic, Social and Cultural Rights ("CESCR") to tackle the housing problem of low-income families, the problem of elderly in poverty, and enhance support services to persons with mental illness as well as separated families between the Mainland and Hong Kong.

Amnesty International Hong Kong

[LC Paper No. CB(2)923/13-14(04)]

14. Ms Debbie TSUI presented the views of Amnesty International Hong Kong as detailed in its submission. She urged the Administration to implement ICESCR in Hong Kong by enacting legislation, and set up a human rights institution that fully met the requirements of the Paris Principles to safeguard human rights.

Social Value Defence Alliance ("SVDA")

[LC Paper No. CB(2)923/13-14(05)]

15. Mr CHEUNG Chun-fung presented the views of SVDA as detailed in its submission. He said that SVDA did not consider it appropriate to enact legislation to recognize homosexual or de facto marriage relationship, highlighting that there was no scientific evidence proving that homosexuality was inborn but there was a view that homosexuality could be changed through therapy according to the relevant studies. He also expressed concern about the impact of legislating against discrimination on the ground of sexual orientation on the freedoms of expression and education.

Equal Opportunities Commission ("EOC")

[LC Paper No. CB(2)850/13-14(08)]

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16. Mr CHU Chung-man highlighted the views of EOC as detailed in its submission. These included: (a) outlawing discrimination on the ground of sexual orientations and gender identity; (b) improving the quality of Chinese Language education for ethnic minorities and non-Chinese speaking students; (c) enhancing the assessment service for early identification of students with special educational needs; and (d) implementing EOC's proposal to extend the scope of protection to providers of goods, services and facilities by amending the Sex Discrimination Ordinance as soon as possible.

Family School Sodo Concern Group ("FSSCG")
[LC Paper No. CB(2)850/13-14(09), CB(2)923/13-14(06)]

17. Mr Roger WONG presented the views of FSSCG as detailed in its submission. He said that FSSCG did not consider it appropriate to legislate against discrimination on the ground of sexual orientation. He stressed that heterosexuals' rights to freedoms of expression, and thoughts should not be restricted and should be protected.

Hong Kong Refugee Advice Centre ("HKRAC")
[LC Paper No. CB(2)850/13-14(10)]

18. Ms Aleta Miller presented the views of HKRAC as detailed in its submission regarding the human rights situation of asylum seekers and refugees seeking protection in Hong Kong, and urged the Government to expand the scope of protection for the claimants (including their rights to work and an adequate standard of living).

Hong Kong Human Rights Monitor ("HKHRM")
[LC Paper No. CB(2)923/13-14(07)]

19. Ms Astor CHAN Wai-sim presented the views of HKHRM as detailed in its submission. She expressed concern about the lack of domestic legislation to entrench ICESCR. She urged the Government to establish an independent human rights institution with a broad mandate to oversee issues related to human rights protection. She made a number of suggestions on implementation of ICESCR to enhance the economic, social and cultural rights of people in Hong Kong.

Hong Kong Unison

20. Miss Annie LI expressed concern about the implementation of the new measure of "Chinese Language Curriculum Second Language Learning

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Framework" in the 2014-2015 school year, and the lack of action taken by the Administration to abolish the system of "designated schools" for ethnic minority children. She urged that the Race Discrimination Ordinance (Cap. 602), which did not specifically apply to the Government in the exercise of its power and functions, should be reviewed. She also called on the Government to step up its efforts to promote human rights education in schools.

Pink Alliance

21. Mr Billy R LEUNG expressed concern that the rights of people with different sexual orientations and gender identity were not protected by law although CESCR had called on the Government to introduce legislation to prohibit discrimination on the ground of sexual orientation as early as in 2001. He disagreed to the Administration's view that public education was more appropriate than legislation. He stressed the need to protect the basic human rights of sexual minorities and considered that it was high time to conduct public consultation on introducing such legislation.

Hong Kong Committee on Children's Rights
[LC Paper No. CB(2)923/13-14(08)]

22. Ms Billy WONG presented the views of Hong Kong Committee on Children's Rights as detailed in its submission. She pointed out that there had been repeated calls for setting up an independent human rights institution with a broad mandate to oversee issues on human rights protection in HKSAR. She urged the Government to set up a Commission on Children to safeguard the well-being of 1.1 million children in Hong Kong. She also expressed concern about the lack of measures in many areas to ensure children's rights to health, education and cultural life, etc.

葵涌區居民低收入關注組

23. Miss LEUNG Wing-ting cited experiences of discrimination encountered by the ethnic minorities in Hong Kong in finding employment, in gaining access to civil service employment, and in obtaining banking services, etc. She urged the Government to take steps to safeguard the rights of ethnic minorities and ensure that they could have equal rights and opportunities in all areas as enshrined under ICESCR.

葵涌東北劏房戶關注組

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24. Mr Minhas Rashad urged the Government to pay heed to the specific needs of ethnic minorities in its formulation of policies. He requested the Government to step up its efforts in helping ethnic minority children integrate into the mainstream education system to enhance their language proficiency. He further pointed out that non-Chinese ethnic minorities born in Hong Kong had difficulties in obtaining HKSAR passports although they had lived in Hong Kong for generations. He said that before the Reunification, these people could apply for British Dependent Territories Citizens or British Nationals (Overseas) passports.

*Hong Kong Confederation of Trade Unions
[LC Paper No. CB(2)923/13-14(01)]*

25. Mr POON Man-hon presented the views of Hong Kong Confederation of Trade Unions as detailed in its submission. He requested that the statutory minimum wage level should be reviewed on an annual basis so as to maintain the employees' standard of living. He urged the Government to implement a standard working hours policy, and take legislative measures to protect the employees' rights of participation in trade union activities and collective bargaining.

葵涌劏房住客聯盟

26. Ms LIU Lai-xiang gave an account of her experience of being a tenant of a subdivided unit and the difficulties encountered, such as facing frequent rental increases and frequent removal of home to cheaper units. She expressed concern about the impact of the removal of rent control and the difficulties faced by tenants in tenancy renewal.

葵涌劏房戶關注組

27. Ms LI Hiu-kwan expressed concern about the impact on rental market after the removal of rent control and security of tenure, and the heavy financial pressure borne by the grassroots due to the rise in rental levels in recent years.

葵涌劏房居民聯席

28. Mr NG Kwan-lim referred to paragraph 11.44 of HKSAR's report and expressed concern about the negative impact on rental market after the removal of rent control and security of tenure, adding that tenants in Kwai Chung District were subject to frequent increases in rent and there was little room for

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negotiation between the landlords and tenants in tenancy renewal. He considered that the Government failed to protect people's right to adequate housing as enshrined under Article 11 of ICESCR.

Rainbow of Hong Kong

[LC Paper No. CB(2)923/13-14(09)]

29. Mr Jimmy SHAM presented the views of Rainbow of Hong Kong as detailed in its submission. He expressed support for enacting legislation against discrimination on the ground of sexual orientation so as to protect the basic human rights and equal opportunities of people with different sexual orientations in obtaining public services (e.g. social welfare services). He requested the Government to provide adequate funding resources to organizations which were set up to provide assistance and services (e.g. temporary emergency shelter) for sexual minorities.

Rainbow Action

[LC Paper No. CB(2)923/13-14(10)]

30. Mr Tommy JAI presented the views of Rainbow Action as detailed in its submission. Citing various examples of discrimination on the ground of sexual orientation, he queried whether adequate efforts had been made by the Government to eliminate discrimination against the sexual minorities. He urged the Government to take legislative measures to outlaw discrimination on the ground of sexual orientation and give an undertaking on the legislative timetable.

Transgender Group

[LC Paper No. CB(2)923/13-14(11)]

31. Ms Angel TSANG Hon-wai presented the views of Transgender Group as detailed in its submission. She raised concerns about the provision of medical services for people with gender identity disorders by the Hospital Authority through its specialist outpatient clinics, and legal issues relating to gender recognition and the relevant medical requirements.

Women Coalition of HKSAR

[LC Paper No. CB(2)923/13-14(12)]

32. Miss YEO Wai-wai presented the views of Women Coalition of HKSAR as detailed in its submission. She said that it was high time to consider legislating against discrimination on the ground of sexual orientation and

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gender identity, as opinion polls conducted in 2012 and 2013 had indicated that over 60% of the respondents were supportive of such legislation. She urged the Administration to step up public education to eliminate general misconception about the impact of enactment of such legislation (e.g. reverse discrimination).

Nu Tong Xue She

33. Mr CHUNG Chi-ho said that the relevant United Nations ("UN") committees had repeatedly urged the HKSAR Government to enact legislation to outlaw discrimination on the grounds of sexual orientation and gender identity. He pointed out that the delayed action by the Government had resulted in the prevalence of discrimination on the grounds of sexual orientation in schools and workplace, and requested the Government to advise on the legislative timetable.

基層住屋小組

34. Mr LAI Kin-kei considered that people's right to an adequate standard of living had not been safeguarded as both housing prices and rents had reached levels beyond the affordability of the general public and many Hong Kong people were living in subdivided units. He said that tenants had been unable to find affordable accommodation. In view of the continuing rise in housing rents, the Administration should consider reinstating rent control.

灣仔基層房屋權益組

35. Ms YANG Gui-shu said that apart from the poor living condition, safety was also a concern in subdivided units. She called on the Government to reinstate rent control and reduce the waiting time for public rental housing ("PRH").

東區住屋組

36. Ms NG Ho requested the Government to put in more resources to address the housing needs of the elderly by expediting the allocation of PRH units to them. She said that she had applied for PRH for six years and still had not been allocated a flat yet. She expressed support for reinstating rent control.

東區住屋關愛小組

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37. Ms WAN Yu highlighted that Article 11 of ICESCR recognized the rights of everyone to an adequate standard of living including adequate food, clothing and housing, and to the continuous improvement of living conditions. She supported reinstating rent control and urged the Government to address the housing needs of the grassroots and reduce the waiting time for PRH.

灣仔基層住屋權益組

38. Mr YIP Chut-kin considered that it was high time to reinstate rent control and called on the Government to address the housing needs of the grassroots and reduce the waiting time for PRH.

關注基層住屋聯席

39. Ms CHAN Hoi-chi expressed support for reinstating rent control or introducing any new form of rent control. She was disappointed to note that the Government had reservations about reinstating rent control and suggested that the Long Term Housing Strategy Steering Committee should work out a feasible option for implementing a territory-wide rent control.

Mr LEE Tak-hung

40. Mr LEE Tak-hung said that discrimination against sexual minorities was common in Hong Kong but the Code of Practice Against Discrimination in Employment on the Ground of Sexual Orientation was ineffective to deter such discriminatory practices. He urged the Administration to take immediate action to conduct public consultation on introducing legislation to outlaw discrimination on the ground of sexual orientation. He suggested that the Education Bureau should incorporate the subject of sexual orientation as part of the school curriculum for secondary education.

Mr WONG Kai-yeung

41. Mr WONG Kai-yeung pointed out that HKSAR had the obligation under ICESCR to introduce legislation to outlaw discrimination on the ground of sexual orientation and gender identity, highlighting that "States parties must therefore adopt measures, which should include legislation, to ensure that individuals and entities in the private sphere do not discriminate on prohibited grounds" as stipulated in the explanation on Article 2 (non-discrimination in economic, social and cultural rights) provided by CESCR in its General Comment No. 20. He urged the Constitutional and Mainland Affairs Bureau

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("CMAB") to step up efforts to eliminate misunderstanding that such legislation, if introduced, would bring about "reverse discrimination".

Transgender Resource Center
[LC Paper No. CB(2)923/13-14(13)]

42. Miss Joanne LEUNG presented the views of Transgender Resource Center proposing the introduction of a Gender Recognition Ordinance in Hong Kong as detailed in its submission. She expressed concerns on issues related to legal recognition of experienced gender in Hong Kong.

43. Members noted that submissions [LC Paper Nos. CB(2)862/13-14(01), CB(2)923/13-14(14) and (15)] were provided by the organizations and persons not attending the meeting as set out in the agenda.

Discussion

Discrimination on the ground of sexual orientation and gender identity

44. Noting that EOC had expressed support for legislating against discrimination on the ground of sexual orientation and gender identity, Ms Emily LAU enquired about the efforts made by EOC in promoting understanding of the issue with a view to forging a consensus and facilitating the future legislative work. Mr CHU Chung-man of EOC said that there were polarized views on the matter and misunderstanding of the possible impact of the relevant legislation, if enacted. He said that in order to collect public views on measures to tackle discrimination against sexual minorities, EOC was undertaking a study in this area. The study would also solicit views from stakeholders on the feasibility of outlawing discrimination on the ground of sexual orientation and gender identity. The findings would form the basis of a public consultation on legislating against discrimination on such ground.

45. Mr Albert HO considered that when formulating relevant legislative proposal, the Administration should address the concern expressed by some deputations as to whether legislating against discrimination on the ground of sexual orientation and gender identity would undermine the freedoms of expression, conscience and religion. Ms Cyd HO sought the views of deputations on the concept of "civil union" which, in her view, would not affect the freedoms of expression, conscience and religion. She further asked whether the deputations would accept that Hong Kong could first enact legislation to recognize civil unions for same-sex partners, whereas legislating

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against discrimination on the ground of sexual orientation and gender identity could then be taken forward later. Mr Roger WONG of FSSCG said that civil unions sought to afford same-sex couples rights and benefits similar to those of legally married couples. This was tantamount to encouraging, at the policy level, homosexuality and public acceptance of homosexuality. He said that FSSCG objected to it in principle.

46. Mrs Regina IP invited deputations concerned to further explain why they said that homosexuality could be cured by medical treatment given that homosexuality was neither mental nor developmental disorder. Mr CHEUNG Chun-fung of SVDA clarified that he had not said that homosexuality was an illness, but had only said that there was no scientific evidence to prove that homosexuality was inborn.

47. Mrs Regina IP further said that she did not agree to a view that promoting non-discrimination against sexual minorities aimed to influence the traditional concept of marriage. She considered that changes in the concept of marriage over the past few decades had nothing to do with the advocacy of protection of the rights of sexual minorities.

48. Mr CHAN Chi-chuen said that as reported by the press, a Christian international school had required its staff to sign an undertaking to abide by biblical ethics and integrity, and those who refused to sign might face disciplinary action or termination of employment. Mr CHAN said that the case illustrated the severity of the discrimination against sexual minorities in Hong Kong. Noting that the Education Bureau ("EDB") had reminded the school to review its policy in the light of the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation ("CoP"), Mr CHAN asked what action EDB could take if the school refused to comply given that CoP was merely administrative. Referring to STL's proposal of tackling discrimination issues (e.g. unreasonable dismissal) faced by sexual minorities merely by amending certain existing legislation as set out in part IV of STL's submission, Mr CHAN considered that such a piece-meal approach could not afford adequate protection to sexual minorities in Hong Kong. He remained of the view that it was necessary to enact comprehensive legislation to tackle discrimination in different fields on the ground of sexual orientation and gender identity.

49. Principal Assistant Secretary for Education (Curriculum Development) responded that EDB had all along advised schools to follow the good practices set out in CoP in order to ensure that the principle of equal opportunities was

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adhered to in handling staff related matters. He said that the Administration would follow up with the Christian international school in question and revert to the Panel.

(Post-meeting note: The Administration's supplementary information was issued vide LC Paper No. CB(2)1252/13-14(01) on 8 April 2014.)

50. Dr Priscilla LEUNG considered that discrimination on the ground of sexual orientation and gender identity could not be eliminated by enacting legislation. In her view, the anti-discrimination legislation, if enacted, would only give rise to more litigation and the community would become more divided. In particular, she expressed concern that religious schools might frequently get involved in litigation if such legislation was enacted. She considered that the Administration should promote mutual respect and understanding in the community by stepping up public education and publicity. She said that it was equally important to safeguard the freedom of parental choice of children's religious and moral education under Article 18(4) of the International Covenant on Civil and Political Rights, as well as the freedom of religious belief under Article 32 of the Basic Law. Referring to the case of *W v Registrar of Marriages (FACV4/2012)* where the Court of Final Appeal ruled that the plaintiff, known as "W", who was a transsexual person, had the legal right to marry in her post-operation gender, Dr LEUNG said that the judgment was not in conflict with the system of monogamous marriage. On the way forward, Dr LEUNG suggested that disputes concerning discrimination against sexual minorities could be dealt with by mediation.

51. USCMA said that the issue of outlawing discrimination on the ground of sexual orientation was controversial and public views were diverse. To better address the issue, the Administration had established a dedicated Advisory Group ("Advisory Group") in June 2013 to advise on matters relating to concerns about discrimination faced by sexual minorities in Hong Kong. On the advice of the Advisory Group, the Administration had commissioned a consultant to conduct a study about whether sexual minorities were discriminated against in Hong Kong and, if so, the discrimination they experienced, and how they responded to it. The study was expected to be completed by the second half of 2014. The results of the study would form a basis for further consideration by the Advisory Group on how to take forward its work.

52. USCMA further said that the Administration would also continue to strengthen the promotion of equal opportunities for sexual minorities through public education and publicity, including further increasing the provision for the

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Equal Opportunities (Sexual Orientation) Funding Scheme, continuing to promote CoP to different levels of management in public and private sector organizations, and promoting the message concerned through a variety of channels and platforms. For example, a new Announcement of Public Interest to promote non-discrimination against sexual minorities had recently been launched.

Ethnic minorities

53. In response to the concerns raised by some deputations on protection of the rights of ethnic minority women in Hong Kong, especially FDHs, Ms Emily LAU asked EOC about the work it had done in this area. Due to shortage of time, Mr CHU Chung-man invited members to refer to EOC's submission which had set out recommendations on the issue.

54. Mr Albert HO expressed concern that many ethnic minority persons born in Hong Kong had great difficulties in obtaining HKSAR passports although they had lived in Hong Kong for generations. He called on the Administration to review its policy to address the problem. USCMA undertook to relay Mr HO's concerns to the Security Bureau for follow-up.

Admin

(Post-meeting note: The Administration's supplementary information was issued vide LC Paper No. CB(2)1077/13-14(01) on 17 March 2014.)

Employment protection and labour rights

55. Mr LEE Cheuk-yan criticized the Administration for its failure to introduce any measures to address the long working hours of employees in Hong Kong. Mr LEUNG Kwok-hung said that although it was stated in the 2014 Policy Address that the Standard Working Hours Committee had been tasked to promote public discussion on the issue, he could not see the Government had any commitment to implement a standard working hours policy.

56. On the protection of FDHs, Mr LEE Cheuk-yan said that many of them dared not complain against their employers for fear of losing their jobs and, given the two weeks' rule, the dismissed employees would then have to leave Hong Kong. Besides, they could find no shelter in case they were expelled from home after lodging complaints against their employers. Mr LEE also called on the Administration to outlaw discrimination on the ground of age by legislation.

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57. Senior Administrative Officer (Policy Support) ("SAO(PS)") of the Labour Department ("LD") said that FDHs enjoyed equal statutory rights and benefits as local employees. The labour laws in Hong Kong, including the Employment Ordinance and the Employees' Compensation Ordinance, were all along applicable to both local and imported workers, including FDHs, affording FDHs the same legal rights as local workers, including rest days, statutory holidays, annual leave, sickness allowance, work injury compensation, etc. FDHs also had free access to the services provided by LD such as consultation and conciliation services. Various promotional and educational efforts had also been made to promote FDHs' understanding of their labour rights and channels available to them for seeking redress.

58. Mr LEUNG Kwok-hung urged the Administration to consider enacting legislation to provide for collective bargaining as such right was stipulated in Article 8 of ICESCR. He considered that the HKSAR Government's repeal of the Employee's Right to Representation, Consultation and Collective Bargaining Ordinance in 1997 was blatant violation of its international obligation.

59. SAO(PS) said that LD had encouraged and promoted voluntary and direct dialogue between employers and employees and their respective organizations at the enterprise and industry levels. The Government was of the view that for any dialogue or bargaining process to be successful and meaningful, it had to be voluntary. Collective bargaining between employers and employees' unions compelled by law might strain the relationship between employers and employees and thus be counter-productive.

Conditions of living

60. Mr Frederick FUNG considered that the increases in the numbers of street sleepers and tenants (about 60 000) living in subdivided units in the territory reflected the Government's failure to fulfill its obligation in ensuring Hong Kong people's right to an adequate standard of living under ICESCR despite the economic growth.

61. Principal Assistant Secretary for Labour and Welfare (Welfare) ("PASLW(W)") said that the Social Welfare Department ("SWD") had been subventing non-governmental organizations ("NGOs") to provide one-stop integrated support services for street sleepers, including outreaching visits, emergency shelter and short-term hostel placement, etc. Street sleepers could apply for the Comprehensive Social Security Assistance subject to meeting the eligibility criteria. Besides, referrals might be made by SWD to the Housing

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Department for consideration of compassionate housing. Assistant Director of Housing (Policy Support) ("ADH(PS)") said that the Administration considered that increasing the supply of PRH was the fundamental solution to tackle the housing problem for those who could not afford renting private housing. As announced in the 2014 Policy Address, the Government had decided to adopt a new housing target to supply a total of 470 000 flats over a ten-year period, with 60% of them being public housing. Of these, the supply target of Home Ownership Scheme ("HOS") flats would be increased to an annual average of about 8 000 units for the next 10 years. With the new supply target (i.e. an annual average of about 20 000 PRH flats and 8 000 HOS flats), the supply of public housing in the next ten years would increase by 36% when compared to the Government's last year pledge.

62. On the issue of rent control as demanded by some deputations, ADH(PS) explained that the Administration was concerned about the implications of the territory-wide application of rent control in terms of the potential increase in rents and the likelihood of a reduction in supply, which would render such measure counter-productive. The Government would need to study this issue carefully before coming to a decision on whether rent control should be reinstated.

Retirement benefits and protection

63. In response to concerns on retirement protection raised by some deputations, PASLW(W) said that there were diverse views in the community. The Commission on Poverty had commissioned a study on retirement protection in Hong Kong conducted by a consultancy team under Professor Nelson CHOW Wing-sun's leadership. The consultancy team aimed to submit the final report to the Social Security and Retirement Protection Task Force of the Commission on Poverty for consideration by mid-2014.

Right to health

64. In response to some deputations' concerns on discrimination of patients with mental illness, PASLW(W) said that the relevant issues could be dealt with under the Disability Discrimination Ordinance (Cap. 487). At present, SWD and NGOs provided a range of community mental health support services with a special focus on rehabilitation and helping patients re-integrate into the community. To strengthen coordination of different policy areas in promoting the well-being of persons with disabilities, the Administration would also propose to upgrade the post of the Commissioner for Rehabilitation.

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Protection of children

65. On the issue of corporal punishment of children, PASLW(W) said that SWD had been collaborating with NGOs to provide a range of preventive, supportive and remedial welfare services, including public education and parental education, to safeguard the well-being of children. He added that relevant legislation was in place to handle cases involving physical abuse of children.

V. Any other business

66. There being no other business, the meeting ended at 5:40 pm.

Council Business Division 2
Legislative Council Secretariat
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