

**立法會**  
**Legislative Council**

Ref : CB2/PL/CA

LC Paper No. CB(2)548/14-15  
(These minutes have been seen  
by the Administration)

**Panel on Constitutional Affairs**

**Minutes of meeting**  
**held on Monday, 17 November 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  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon LEUNG Yiu-chung  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan, JP  
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, SBS  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon James TIEN Pei-chun, GBS, JP  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin

Hon WU Chi-wai, MH  
Hon YIU Si-wing  
Hon Gary FAN Kwok-wai  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kong, SBS, JP  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Tony TSE Wai-chuen, BBS

**Members  
absent** : Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon CHEUNG Kwok-che  
Hon Alan LEONG Kah-kit, SC  
Hon Charles Peter MOK, JP  
Hon Alice MAK Mei-kuen, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP

**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  
  
Miss Helen CHUNG Chi-ching  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs  
  
Ms Dorothy CHENG Tai-ngar  
Senior Assistant Solicitor General (Acting)  
Department of Justice

Mr Vernon LOH  
Senior Government Counsel  
Department of Justice

Item IV

Miss Annie TAM Kam-lan  
Permanent Secretary for Labour and Welfare

Miss Fiona LI Wing-suen  
Principal Assistant Secretary for Labour and Welfare  
(Welfare) 2

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

Ms Amy WONG Pui-man  
Principal Assistant Secretary (Security) C  
Security Bureau

Ms Aubrey FUNG Ngar-wai  
Principal Assistant Secretary (Civic Affairs) 2  
Home Affairs Bureau

Ms Philly CHING Suk-yee  
Principal Education Officer (Curriculum Development) 2  
Education Bureau

Mr Nicholas CHAN Chun-tak  
Assistant Commissioner for Labour (Policy Support)  
Labour Department

Mr FUNG Man-chung  
Assistant Director of Social Welfare (Family and Child  
Welfare)  
Social Welfare Department

Dr Rita HO Ka-wai  
Principal Medical and Health Officer (Family Health  
Service)  
Department of Health

Mr MA Kit-chi  
Principal Liaison Officer (1) 2  
Home Affairs Department

Ms Diana LAM Man-yee  
Senior Government Counsel  
Department of Justice

**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 Fonny TSANG  
Legislative Assistant (2) 3

---

Action

**I. Information papers issued since the last meeting**  
[LC Paper No. CB(2)154/14-15(01)]

1. Members noted Mr Kenneth LEUNG's letter dated 22 October 2014 informing the Panel of his withdrawal of membership.

**II. Items for discussion at the next meeting**  
[LC Paper Nos. CB(2)267/14-15(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 15 December 2014 at 2:30 pm -

(a) 2015 Voter registration campaign; and

(b) access to information: follow-up actions to the recommendations of The Ombudsman's direct investigation report.

Action

3. In response to Ms Emily LAU's enquiry, Under Secretary for Constitutional and Mainland Affairs ("USCMA") said the Task Force on Constitutional Development ("Task Force") had indicated that consideration could be given to submitting a "Public Sentiments Report" to the Hong Kong and Macao Affairs Office of the State Council to reflect the aspirations and opinions regarding constitutional development expressed by different sectors of the community and the related social events since 31 August. At present, the Administration was in the course of collating materials. Ms LAU considered that the Administration should explain to Members how the Administration was going to collect the public's opinions, and it should listen to Members' views first before commencing the relevant drafting work. Ms Claudia MO further suggested that it would be desirable if the "Public Sentiments Report", when ready, could be provided to the Legislative Council ("LegCo") Members for consultation before submission to the Central Government. Ms MO asked whether the Administration had any plan to commission the Public Opinion Programme of the University of Hong Kong to conduct a survey in connection with the preparation of the "Public Sentiments Report". USCMA advised that the Administration did not have such a plan. After discussion, the Chairman directed that the item "Issues relating to the submission of the 'Public Sentiments Report' by the Task Force" be added to the agenda of the next regular meeting, and the next meeting be extended to end at 5:00 pm.

4. Dr Helena WONG and Mr LEUNG Yiu-chung asked for details of the "multilateral platform" mentioned by the Task Force during their dialogue with student representatives, such as which parties would be invited to join. USCMA advised that details of the "multilateral platform" for discussion of constitution development beyond 2017 had yet to be worked out. Meanwhile, the Administration saw a more urgent need to conduct the second round public consultation on the methods for selecting the Chief Executive in 2017 and for forming LegCo in 2016, which hopefully could be launched soon. The Chairman said the Administration could provide in writing any further details of the "multilateral platform", if available, to the Panel before the next meeting.

**III. Results of the public consultation on disqualification of candidates with unserved prison sentences and other related matters and proposed way forward**

[LC Paper Nos. CB(2)267/14-15(03) and (04)]

Action

5. USCMA took members through the salient points of the Administration's paper [LC Paper No. CB(2)267/14-15(03)]. Members noted the background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)267/14-15(04)].

Disqualification of persons with unserved prison sentences as candidates at a LegCo election

---

*Persons serving a sentence of imprisonment*

6. Mr WONG Yuk-man expressed strong dissatisfaction with the Administration's initial proposal of maintaining section 39(1)(d) of the Legislative Council Ordinance (Cap. 542) ("LCO"), which disqualified a person who was serving a sentence of imprisonment on the date of nomination or of the election from being nominated or being elected. He stressed that the right to stand in elections was sacred and had to be upheld. He considered that as long as the person who was serving a sentence of imprisonment had fully disclosed his or her situations, and provided that the voters who voted for the person were fully aware of the person's situations, he did not see why allowing such a person to be nominated to stand for election would go against the objective of maintaining public confidence in LegCo. He urged the Administration to respond in detail to the queries raised by the Hong Kong Bar Association ("HKBA") and the Law Society of Hong Kong (e.g. HKBA was of the view that the Administration had failed to justify maintaining section 39(1)(d) as a proportionate restriction of the constitutionally guaranteed fundamental right of the Hong Kong Special Administrative Region ("HKSAR") permanent residents to stand in elections) in their respective submissions. Mr WONG added that the reasons set out in paragraph 9 of the Administration's paper (except paragraph 9(c)) to support that section 39(1)(d) was a justified restriction, in fact, could also apply to support that section 39(1)(b) was in the same way a justified restriction. He did not see why the Administration only accepted that section 39(1)(b) was unconstitutional whereas section 39(1)(d) was a justified restriction and should be maintained.

7. USCMA explained that section 39(1)(b) of LCO specifically related to the disqualification of a person with an unserved sentence of death or imprisonment whereas section 39(1)(d) related to a person serving a sentence of imprisonment. The Administration considered that allowing an imprisoned person time-out from imprisonment, as well as frequent visits and other forms of outside contacts, for the purpose of conducting election

Action

campaigns would put the person in a privileged position as compared to other prisoners in custody. On the other hand, there were views that restrictions that affected an imprisoned person's ability to conduct a campaign might be considered to go against the fair and equal treatment principle. The Administration considered that the justifications underpinning the long-existed section 39(1)(d) of LCO remained sound and valid. USCMA further explained that the right to stand for election was not absolute and could be subject to reasonable and justifiable restrictions which satisfied the proportionality test.

8. Ms Claudia MO, Mr LEUNG Yiu-chung, Dr Fernando CHEUNG and Ms Emily LAU expressed support for allowing a person who was serving a sentence of imprisonment to stand for election. They said that a person's right to stand for election was a constitutionally guaranteed fundamental right and was protected under Article 26 of the Basic Law ("BL"), which provided that "Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law." Dr Fernando CHEUNG pointed out that the political right (including the right to stand for election) of permanent residents of Hong Kong was further protected by BL39, which provided for the applicability of the provisions of the International Covenant on Civil and Political Rights and relevant conventions to HKSAR. He considered that the proposal of disqualifying persons pending appeal while serving a sentence of imprisonment could result in unfairness in the various scenarios as elaborated in the submission made by Society for Community Organization. With regard to the Administration's view that allowing an imprisoned person time-out from imprisonment for the purpose of conducting election campaigns would give rise to problems, Ms Emily LAU and Mr LEUNG Yiu-chung considered that the Administration could simply impose a restriction that the person could not conduct election campaigns, as the person could enlist the assistance of members of his or her electioneering teams in conducting election campaigns on his or her behalf. Ms LAU also reminded the Administration of the precedent of Bobby Sands, who was elected to the British Parliament while serving a sentence of imprisonment.

9. Dr Priscilla LEUNG, however, pointed out that the words "in accordance with law" in BL26 must not be overlooked. She considered that while BL26 provided that permanent residents of HKSAR had the right to vote and to stand for election, such right had to be exercised "in accordance with law", not without any restriction. She further pointed out that BL26 should be read in conjunction with BL79 to see more clearly that such right, in fact, was not absolute.

Action

10. Dr CHIANG Lai-wan noted that the Administration proposed allowing an appellant who was released on bail pending appeal to be nominated as a candidate at a LegCo election and be elected as a LegCo Member until disposal of the appeal, so long as he or she remained on bail and was not otherwise caught by other restrictions under section 39 of LCO. On the other hand, the Administration proposed to disqualify an appellant who was currently serving a sentence of imprisonment from being nominated as a candidate at a LegCo election and from being elected as a LegCo Member, unless and until the person was subsequently granted bail pending appeal. Dr CHIANG queried if these recommendations were fair as the appellants in both scenarios were convicted. She counter-proposed that a person who had been convicted of certain offences and sentenced to imprisonment should be disqualified from being nominated as a candidate or being elected, irrespective of whether or not he or she was serving his/her imprisonment term or had been released on bail pending appeal. She considered that if a convicted person pending appeal was allowed to stand for election, it might give rise to uncertainty in the electoral process because if the appeal of a candidate was dismissed subsequently, he or she would become disqualified as a candidate, or, if elected, might have to vacate his or her seat. In case of vacancies thus arising, resources would be required to conduct by-elections and the operation of LegCo would also be adversely affected.

11. USCMA explained that the Administration considered that a person on bail pending appeal was not subject to custodial discipline and his or her liberty was not severely restricted. It might be disproportionate to disqualify such persons from standing for election. Dr CHIANG asked if there were clear criteria adopted by the Court for determining whether to grant release on bail. Assistant Legal Adviser explained that while the relevant criteria were not set out in any statute, there were clear guidelines provided by appellate courts on granting bail pending appeal. The principle was, among other things, if by the time the appeal or application for leave to appeal was heard, a substantial part or the entire sentence would have been served unless the intended appeal or application had no realistic chance of success.

12. Mr LEUNG Kwok-hung considered that there was no need to worry about the impact on the operation of LegCo in the scenario that a convicted person pending appeal was allowed to stand for election and was elected but then his/her appeal was dismissed subsequently. He pointed out that an



Action

elected LegCo Member who could not perform his or her duties could be dealt with by BL79, which set out the circumstances in which a LegCo Member was declared no longer qualified for the office.

13. In reply to Mr WU Chi-wai's enquiry, Principal Assistant Secretary for Constitutional and Mainland Affairs advised that the proposed suspension arrangements set out in paragraph 10 of the Administration's paper under discussion would apply to persons caught by the existing section 39(1)(e) of LCO.

Disqualification of District Council members and Rural Representatives with unserved prison sentences from holding office

---

*Convictions and sentences outside Hong Kong*

14. Mr CHAN Chi-chuen expressed disappointment at the Administration's response in paragraph 24 of its paper to his concern expressed at the last meeting that it might not be fair for the disqualification provisions to cover convictions and sentences outside Hong Kong. He considered that the Administration's view was made on the premise that the criminal justice systems of all other jurisdictions were fair and impartial. He considered that the Administration should not have had such a presumption. He suggested that a mechanism be put in place whereby a judge be authorized to, on a case-by-case basis, look at the convictions and sentences outside Hong Kong involved and decide whether the disqualification provisions should be invoked. Mr LEUNG Kwok-hung also questioned whether conviction of minor offences outside Hong Kong (e.g. the acts of eating pork or drinking wine were not allowed by law in some jurisdictions), and which were not offences in Hong Kong, justified disqualifying the person concerned from holding office. He also specifically asked how the Administration would treat a person allegedly contravening the national security law on the Mainland under the current proposals. He agreed that consideration should be given to providing for the Court to make a determination in the relevant cases.

15. USCMA said that the Administration considered that it was extremely difficult, if not impossible, to engage in a detailed comparison of each and every offence and punishment of different jurisdictions with that of Hong Kong given the differences in the historical, social and cultural background of different societies. A term of imprisonment exceeding three months was therefore adopted as the objective benchmark for triggering disqualification.

Action

The Administration considered that this arrangement was preferable as it ensured clarity and certainty in application and avoided subjective judgment. USCMA further said that a person was expected to abide by the law of a place where he/she was in, and where the person was found to have contravened the laws of that place and convicted by its courts of a criminal offence, this might raise questions over the person's credibility and integrity. On that basis, the Administration considered that the existing disqualification provisions should cover convictions and sentences outside Hong Kong. USCMA reminded members that BL79(6) also covered convictions and sentences outside Hong Kong. He further advised that the Court was not in the position to determine whether the laws enacted in other jurisdictions were justifiable and whether the sentences given by their courts were just or fair.

16. Mr WU Chi-wai and Ms Cyd HO also opposed the proposal for the disqualification provisions to cover convictions and sentences outside Hong Kong indiscriminately. Ms HO considered that the disqualification provisions should not cover conviction of an offence outside Hong Kong involving an act which was illegal in the jurisdiction concerned but not in Hong Kong. She considered that it would not be difficult to make such a comparison. Mr WU suggested that a mechanism could be introduced to consider such cases involving convictions and sentences outside Hong Kong and, in the design of this mechanism, reference could be made to the existing mechanism for consideration of the eligibility of persons to be nominated as candidates of any particular functional constituency and the wording of relevant provision (i.e. section 37(2)(b)(ii) of LCO). USCMA said that the views and suggestions raised by members would be considered by the Administration in finalizing the relevant recommendations.

**IV. Consideration of the Third Report of HKSAR under the Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW")**

[LC Paper Nos. CB(2)267/14-15(05) and (06)]

17. Members noted the Administration's paper on the subject [LC Paper No. CB(2)267/14-15(05)] and the updated background brief prepared by LegCo Secretariat [LC Paper No. CB(2)267/14-15(06)].

*(Post-meeting note: A submission from Justice Centre Hong Kong tabled at the meeting was issued to members vide LC Paper No. CB(2)304/14-15 on 18 November 2014).*

Action

Discussion

*Human trafficking and protection of sex workers*

18. Mr WONG Yuk-man expressed dissatisfaction that the Administration failed to respond to some recommendations repeatedly made by the United Nations Committee on the Elimination of Discrimination against Women ("the UN Committee") after consideration of the HKSAR's first and second reports. He said that in paragraph 56 of its concluding observations on the HKSAR's third report, the UN Committee reiterated its concerns about the non-applicability of the Palermo Protocol to HKSAR, the lack of a comprehensive anti-trafficking legislation and the existence of legislative provisions on "vice establishment". However, he could not see from the relevant Administration's response in its press release (Annex D to LC Paper No. CB(2)267/14-15(05)) that the Administration had tackled seriously the above issues raised by the UN Committee.

19. Permanent Secretary for Labour and Welfare ("PS(LW)") assured members that the Government attached great importance to the submission of the HKSAR's reports under CEDAW. Apart from the press release, the Administration had explained in detail its position on relevant issues in the HKSAR's third report. The Administration had also provided written replies to the list of issues raised by the UN Committee and responded to further questions from the UN Committee at the consideration meeting held in Geneva on 23 October 2014. On the non-applicability of the Palermo Protocol to HKSAR, PS(LW) said that the Administration had explained to the UN Committee that given Hong Kong's densely populated nature and its socio-economic situation, there were difficulties to allow the victims of human trafficking to settle in Hong Kong. The Administration considered that the extension of the Protocol to Hong Kong required careful examination.

20. Mr SIN Chung-kai sought clarification from the Administration on how the existing legislation in HKSAR could provide a solid framework on combating human trafficking as it claimed in the press release. Principal Assistant Secretary (Security) C ("PAS(S)C") advised that the Administration had explained to the UN Committee that although Hong Kong did not have a single piece of legislation to cover the criminal offences targeted by the Palermo Protocol, the relevant trafficking-related acts were prohibited under various pieces of legislation such as the Crimes Ordinance

Action

(Cap. 200), the Immigration Ordinance (Cap. 115) and Offences against the Person Ordinance (Cap. 212). The prescribed penalties were up to a maximum of 10 years' to life imprisonment. In the past three years, five syndicates were smashed by the Police and the arrested persons were sentenced to up to 30 months' imprisonment.

21. Referring to the UN Committee's concern that women in prostitution in Hong Kong were forced to work alone in isolated settings where they were exposed to higher risk of abuse, exploitation and violence by clients, Mr CHAN Chi-chuen asked whether the Administration would consider relaxing the existing policy of prohibiting more than one sex worker working at the same premises. PS(LW) explained that the current legislation prohibiting more than one sex worker working at the same premises struck a reasonable balance, taking account of the human rights and privacy of sex workers, the well-being of other members of the community as well as the prevailing moral values of the community.

22. In response to Mr CHAN Chi-chuen's concern that there were complaints from sex workers about the abuse of power by police officers in anti-vice operations, PAS(S)C responded that the Police had in place a comprehensive mechanism to monitor the conduct of police officers. All officers taking part in covert operations against vice activities were required to strictly comply with the Police internal guidelines which forbid officers from having unnecessary body contact with the sex workers. At the request of Mr CHAN, PAS(S)C undertook to provide the number of complaints related to the conduct of undercover police officers in anti-vice operations.

Admin

*Women's political representation and participation in public affairs*

23. Mr WONG Yuk-man considered that functional constituencies ("FC") elections were dominated by men, as only two female Members were returned through the DC (Second) FC and no female Member was returned through the traditional FCs in the 2012 LegCo election. Referring to the UN Committee's recommendation that the Government should undertake a study about the impact of the FC system on the equal participation of women in politics as stated in paragraphs 58 and 59 in the concluding observations, Mr WONG queried how the Administration could enhance women's participation in politics if the FC system was to be retained.

24. Dr Helena WONG criticized that the FC system representing interests of major professions/industries was discriminatory against women as it

Action

rendered some women (e.g. housewives) ineligible to stand for FC elections due to low participation in some sectors. She called on the Administration to reduce the number of FC seats in 2016 and abolish all FC seats when universal suffrage was implemented for forming LegCo. Dr KWOK Ka-ki urged the Administration to immediately abolish the FC system and all LegCo seats should be returned by direct elections to enable women to have equal rights to stand for elections irrespective of their occupations.

25. Mr IP Kin-yuen was concerned that women's participation in politics in Hong Kong was very low compared with that of other jurisdictions. He pointed out that only about 16% of the LegCo seats were taken up by female Members after the 2012 LegCo elections (i.e. nine female Members returned from geographical constituencies and no female Member returned from 28 traditional FCs). He considered that the FC system had distorted women's participation in politics and the Government should address this issue when reviewing the constitutional development. Mr LEE Cheuk-yan criticized that the FC system had adverse impact on the equal participation of women in politics.

26. Principal Assistant Secretary for Constitutional and Mainland Affairs ("PAS(CMA)") replied that women and men enjoyed the same rights to vote and to stand for elections, including elections of FCs of LegCo. These rights were safeguarded by BL. The legislation governing the eligibility of candidates in FCs did not have any differential treatment on the grounds of gender. In response to Mr LEE Cheuk-yan's enquiry, PAS(CMA) advised that the current-term of Election Committee constituted in 2012 had 180 female members, representing an increase of 71 when compared with the Election Committee of the previous term.

*Labour rights and women's employment*

27. Dr Helena WONG said that the three days' paid paternity leave ("PL") proposed by the Administration in the Employment (Amendment) Bill 2014 was too short. She considered that it should be increased to seven days with PL pay set at the full rate of the employee's average daily wages. She also suggested that the existing ten-week paid maternity leave be increased to at least 14 weeks to comply with international standards established by the International Labour Organisation in 2000 with full pay leave granted to employees.

28. Dr CHIANG Lai-wan considered that a reasonable balance between the interests of employers and employees had been struck in proposing the

Action

duration of paid PL to three days. She considered that the introduction of paid PL should not be held up any more. Ms Emily LAU considered that the leave period of PL should comply with international standards in order to afford better protection to employees. Mr LEUNG Kwok-hung considered that the Administration should make reference to overseas legislation in formulating the proposal on PL. Mr LEE Cheuk-yan asked how the Administration would follow up members' concerns on maternity leave and PL.

29. PS(LW) responded that the Administration had explained to the UN Committee that the maternity benefits provided to employees in Hong Kong were solely borne by employers. Any proposal to increase the paid maternity leave period (e.g. to be funded by insurance with employees' contribution) had to be considered cautiously and on the basis of consensus reached by the community. The Administration hoped that the Employment (Amendment) Bill 2014 would soon be passed by LegCo to make PL a statutory requirement in Hong Kong.

30. Ms Emily LAU enquired about the Administration's measures to promote flexible working arrangements for women. Miss CHAN Yuen-han expressed concern that the women employment rate in Hong Kong was much lower than that of other advanced economy. She considered that the traditional family value and the lack of child care support had made it difficult for women to pursue employment and to participate in public affairs. She had thus put forward a proposal on release of women's productivity to the Chief Secretary for Administration.

31. PS(LW) said that the Administration had facilitated employment of women by taking a number of measures, such as provision of better community child care as well as after-school child care and elderly services, to help women balance their roles in work and family. In fact, the UN Committee also recognized the efforts made to advance the status of women in Hong Kong in various fields in recent years. She said that the Administration would consider the proposal put forward by Miss CHAN in this regard. Dr Fernando CHEUNG considered that the Administration should abolish the "4-18" requirement for a continuous contract so that female employees took up fragmented jobs were entitled to the rights and benefits under the Employment Ordinance.

*(To allow sufficient time for discussion, the Chairman directed that the meeting be extended by about 30 minutes.)*

Action

*Domestic and sexual violence*

32. Referring to a recent domestic violence case, Dr CHIANG Lai-wan enquired about the Administration's measures taken to combat domestic violence and the relevant prosecution rate. PS(LW) replied that the Administration had provided detailed information on the relevant measures taken and the prosecution rates in the HKSAR's reports submitted to UN. Assistant Director of Social Welfare (Family and Child Welfare) said that combating domestic violence had been a priority area of the Social Welfare Department ("SWD"). SWD had adopted a three-pronged approach, namely the provision of preventive, supportive and specialised services for the prevention and handling of domestic violence. In recent years, public education on prevention of domestic violence and supportive services to victims of domestic violence had been strengthened. He added that on top of the preventive measures and counselling service provided by the 65 Integrated Family Service Centres and two Integrated Services Centres for individuals and families who were facing family/marital problems, SWD had set up 11 Family and Child Protective Services Units as specialized units to handle domestic violence cases. A 24-hour hotline was set up to provide counselling, support and advice for victims of domestic violence and their families by social workers.

33. Dr Fernando CHEUNG, Miss CHAN Yuen-han and Dr KWOK Ka-ki considered that the provision of supportive measures to victims of domestic violence were retrogressive in recent years. Dr CHEUNG and Miss CHAN expressed particular concern that the Administration failed to provide a specialised one-stop service to victims of sexual violence since the cessation of the operation of RainLily. PS(LW) assured members that the Administration had made progress in combating domestic and sexual violence by stepping up various measures in the light of operating experience.

34. Dr Fernando CHEUNG enquired about the Administration's progress in following up the legislative reform proposals on sexual offences made by the Law Reform Commission ("LRC"). PS(LW) replied that the relevant review of LRC was still underway and the Administration would follow up as appropriate when the LRC's recommendations were available.

*Treatment of foreign domestic helpers ("FDHs")*

35. Ms Emily LAU enquired about the Administration's measures to protect FDHs from abuses by their employers and to combat illegal practices

Action

of employment agencies ("EAs"). She also requested the Administration to explain the rationale for adopting the "live-in requirement" and the "two-week" rule.

36. PS(LW) said that FDHs enjoyed the same employment rights and benefits provided under the labour laws as local workers. The Government would take stringent enforcement and prosecution action against any malpractice of employers and EAs. PS(LW) emphasized that the "live-in requirement" formed the cornerstone of Hong Kong's policy of importing FDHs and the main purpose of the "two-week" rule was to allow sufficient time for FDHs to prepare for their departure and prevent FDHs from job-hopping. Assistant Commissioner for Labour (Policy Support) gave an account of the various publicity and promotional efforts taken by Labour Department to enhance FDH's awareness of their rights and benefits and the means of seeking assistance. He said that the Government had also strengthened its collaboration with the relevant Consulates General in HKSAR in this regard. On the regulation of EAs, the Labour Department had increased the number of regular and surprise inspections to EAs from 1 300 to 1 800 this year and would consider issuing a Code of Practice for the industry.

37. Mr LEE Cheuk-yan considered that the Administration should strengthen regulatory control of EAs following cases of alleged abuse against FDHs by their employers. PS(LW) advised that the Administration would consult the Panel on Manpower on the proposals for regulation of EAs in due course.

*Status of Women's Commission ("WoC")*

38. Mr IP Kin-yuen considered that the Administration should strengthen the mandate of WoC as advocated by the UN Committee to a level equivalent to those of statutory organisations (e.g. the Equal Opportunities Commission). He was concerned that WoC was only an advisory body and lacked adequate financial support and resources to undertake its functions.

39. PS(LW) advised that WoC was set up to advise the Government on women's issues in response to the previous recommendation of the UN Committee. WoC was headed by a non-official chairperson and comprised 23 members representing women's interests from different sectors. While WoC was not a statutory body, it had performed the distinct role of a high-level central mechanism for development and coordination of a women-focused policy. The Labour and Welfare Bureau had provided



Action

necessary resources to WoC to undertake various projects to promote the interests and well-being of women every year. Relevant bureaux and departments were also required to take into account the advice of WoC in formulating policies where appropriate. The Administration was proactively considering WoC's advice in the areas of gender mainstreaming and gender benchmark for appointment to government advisory and statutory bodies. Miss CHAN Yuen-han considered that WoC should be more proactive in implementing measures to promote women employment and alleviate poverty among women.

*Small House Policy*

40. Dr KWOK Ka-ki considered that the Small House Policy was discriminatory against women as female villagers were not entitled to certain rights and privileges in respect of land and property under the Policy. He enquired about the Administration's progress in reviewing the policy. PS(LW) said that the Small House Policy had been in place for a long time since 1972. Any major change would entail complicated legal, land use and planning issues which required very careful consideration. The review of the Small House Policy by the Development Bureau was ongoing and some enhancements had been made to, for example, the procedures in handling small house applications.

*Anti-discrimination*

41. Mr WONG Yuk-man considered that the Administration's work in promoting gender recognition and eliminating discrimination on the grounds of sexual orientation and gender identity was grossly inadequate. He criticized that the Advisory Group on Eliminating Discrimination against Sexual Minorities established in June 2013 lacked transparency and had made little progress of its work.

**V. Any other business**

42. There being no other business, the meeting ended at 5:07 pm.