

**立法會**  
**Legislative Council**

Ref : CB2/PL/CA

LC Paper No. CB(2)1159/15-16  
(These minutes have been seen  
by the Administration)

**Panel on Constitutional Affairs**

**Minutes of policy briefing cum meeting  
held on Monday, 18 January 2016, at 2:30 pm  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon TAM Yiu-chung, GBS, JP (Chairman)  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Deputy Chairman)  
Hon LEE Cheuk-yan  
Hon CHAN Kam-lam, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon WONG Kwok-hing, BBS, MH  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Cyd HO Sau-lan, JP  
Hon Starry LEE Wai-king, JP  
Hon CHAN Kin-por, BBS, JP  
Hon WONG Kwok-kin, SBS  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon James TIEN Pei-chun, GBS, JP  
Hon NG Leung-sing, SBS, JP  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Dr Hon Kenneth CHAN Ka-lok  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon SIN Chung-kai, SBS, JP  
Hon IP Kin-yuen  
Hon Martin LIAO Cheung-kong, SBS, JP

Dr Hon CHIANG Lai-wan, JP  
Hon Tony TSE Wai-chuen, BBS

**Members absent** : Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Dr Hon LAM Tai-fai, SBS, JP  
Hon CHAN Hak-kan, JP  
Hon Steven HO Chun-yin, BBS  
Hon CHAN Han-pan, JP  
Hon CHAN Yuen-han, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon CHUNG Kwok-pan

**Public Officers attending** : Items II and III

Mr Raymond TAM Chi-yuen, GBS, JP  
Secretary for Constitutional and Mainland Affairs

Ms CHANG King-yiu, JP  
Permanent Secretary for Constitutional and Mainland Affairs

Mr Ronald CHAN Ngok-pang, JP  
Under Secretary for Constitutional and Mainland Affairs

Miss Charmaine LEE Pui-sze, JP  
Deputy Secretary for Constitutional and Mainland Affairs

Mr Ryan CHIU Pit-ming  
Acting Deputy Secretary for Constitutional and Mainland Affairs

Item IV

Mr Ronald CHAN Ngok-pang, JP  
Under Secretary for Constitutional and Mainland Affairs

Mr Ryan CHIU Pit-ming  
Acting Deputy Secretary for Constitutional and Mainland Affairs

Mr Sunny PAU Pak-sun  
Assistant Secretary for Constitutional and Mainland Affairs

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

**Staff in attendance** : Mr Kelvin LEE  
Senior Assistant Legal Adviser 3

Miss Cindy HO  
Senior Council Secretary (2) 3

Mrs Fanny TSANG  
Legislative Assistant (2) 3

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**I. Information paper(s) issued since the last meeting**

[LC Paper No. CB(2)569/15-16]

The Panel noted that the geographical constituency boundary maps in respect of the 2016 Legislative Council ("LegCo") General Election [LC Paper No. CB(2)569/15-16] had been issued to members after the last meeting.

**II. Items for discussion at the next meeting**

[LC Paper Nos. CB(2)649/15-16(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting on 15 February 2016 at 2:30 pm -

(a) report of the Advisory Group on Eliminating Discrimination against Sexual Minorities; and

(b) briefing by the Privacy Commissioner for Personal Data.

3. At the suggestion of Mr CHAN Chi-chuen, members agreed to discuss the report on the "Study commissioned by the Equal Opportunities Commission ("EOC") on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status" as well under the subject referred to in (a) above, and to invite representatives of EOC to join the discussion.

**III. Briefing on the Chief Executive's ("CE") 2016 Policy Address**

[LC Paper No. CB(2)649/15-16(03)]

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4. The Secretary for Constitutional and Mainland Affairs ("SCMA") briefed members on salient points of the Administration's paper [LC Paper No. CB(2)649/15-16(03)].

*(Post-meeting note: The speaking note of SCMA was issued vide LC Paper No. CB(2)692/15-16 on 19 January 2016.)*

Issues raised by members

*Constitutional development*

5. Mr SIN Chung-kai enquired whether the Administration would promote discussion in the community on implementation of universal suffrage for the CE election in 2022. SCMA said that CE had made it clear that the current term Government had no plan to restart discussion on constitutional development but would focus its efforts on various economic development and livelihood issues. Mr SIN called on the Administration to come up with proposals to broaden the electorate base of functional constituencies ("FCs") to enhance the representativeness of Members elected from FCs. Ms Emily LAU said that the principle of gradual and orderly progress stipulated in the Basic Law ("BL") would be contravened if no changes were introduced to the method for forming LegCo.

6. SCMA explained that "the principle of gradual and orderly progress" did not mean that substantial changes had to be made to the method for forming LegCo in each of its terms. Under BL 68, "the actual situation in the Hong Kong Special Administrative Region" also had to be taken into account in considering whether Annex II to BL was to be amended. SCMA added that the Administration had made it clear that the existing delineation of FCs would remain intact and that only necessary technical amendments would be made for the 2016 LegCo election.

*Promotion of BL*

7. Mr WONG Kwok-hing criticized that no new measure was proposed in the CE's Policy Address to promote understanding of BL and requested the Administration to review the effectiveness of the efforts made in promoting BL. He considered it important to raise public awareness and understanding of BL in order to pave the way for future implementation of constitutional reform. Mr Jeffrey LAM said that although BL had now been in force for 18 years, some people emphasized only the "two systems" and neglected the "one country" principle. He sought details of the Administration's plan to promote BL to enhance understanding of BL among the general public, particularly the youth.

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8. The Deputy Secretary for Constitutional and Mainland Affairs said that the Basic Law Promotion Steering Committee ("BLPSC") was set up to map out strategies for promoting BL and co-ordinate the efforts of government departments and non-governmental organizations. A wide range of BL promotional activities were organized by the five working groups established under BLPSC. Individual bureaux/departments had also organized activities for their target groups. For example, the Education Bureau had produced BL visual learning packages for upper primary and junior secondary students and organized territory-wide inter-school quiz competitions; the Civil Service Bureau had organized thematic talks on BL; the Trade and Industry Department had organized thematic seminars and a souvenir design competition on BL; and the Information Services Department had produced a BL promotion video. Besides, a community participation scheme organized by the Committee on the Promotion of Civic Education under the Home Affairs Bureau, as well as the BL Promotion Sponsorship Scheme under the Constitutional and Mainland Affairs Bureau ("CMAB") had encouraged community organizations to stage activities at the district level to commemorate the 25<sup>th</sup> anniversary of the promulgation of BL. In addition, the Education Bureau had subsidized educational groups and tertiary institutions to carry out BL promotion activities through the Quality Education Fund and the Basic Law Promotion Funding Scheme for Tertiary Institutions.

9. Mr IP Kwok-him also stressed the need to deepen people's understanding of BL, in particular the role of "one country" under the principle of "one country, two systems". Mr IP and Ms Starry LEE expressed concern about the effectiveness of the existing measures in promoting BL. The Permanent Secretary for Constitutional and Mainland Affairs ("PSCMA") said that to help address members' concern, throughout the comprehensive programmes to commemorate the 25<sup>th</sup> anniversary of the promulgation of BL, the general principles of BL, the relationship between the Central Authorities and the Hong Kong Special Administrative Region ("HKSAR") as well as the constitutional framework were made the themes of BL Promotion Sponsorship Scheme. Ms LEE suggested the Administration to engage more young people in the discussion. PSCMA undertook to relay members' views to BLPSC for consideration.

10. Mr WONG Yuk-man criticized that BL education had not been effectively implemented. Mr LEE Cheuk-yan requested the Administration to provide information on whether CMAB had financed any "banquet or sole-distribution-of-free-gift" activity to promote BL in the past five years.

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*(Post-meeting note: The Administration's written response was issued vide LC Paper No. CB(2) 960/15-16 on 24 February 2016.)*

*Assistance to Hong Kong people in the Mainland*

11. Ms Emily LAU expressed concern that the recent missing person reports had undermined people's confidence in the implementation of "one country, two systems" in Hong Kong. SCMA explained that BL provided the legal basis for the implementation of "one country, two systems" in HKSAR. He said that BL 14(2) provided that the Government of HKSAR shall be responsible for the maintenance of public order in the Region. BL 22(1) provided that no department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government might interfere in the affairs which HKSAR administered on its own in accordance with BL. BL 18(1) provided that the laws in force in HKSAR shall be BL, the laws previously in force in Hong Kong as provided for in BL 8 and the laws enacted by the legislature of HKSAR. BL 18(2) provided that national laws shall not be applied in HKSAR, except for those listed in Annex III to BL.

12. In response to Ms Emily LAU's enquiry on whether and how the Administration might assist in the missing person cases in question, SCMA said that the Administration attached great importance to those cases and the Police had been seeking assistance from relevant Mainland police co-operation units via the police co-operation mechanism. Mr WONG Yuk-man and Mr Paul TSE questioned why the Economic and Trade Offices ("ETOs") in the Mainland did not offer any assistance to the persons concerned. Mr LEE Cheuk-yan and Mr LEUNG Kwok-hung expressed dissatisfaction that the Mainland authorities had released news from time to time on the matter through the Mainland news media rather than the existing official communication mechanism.

13. PSCMA explained that while the main functions of ETOs included strengthening liaison and communication with the local government authorities in order to enhance economic cooperation and trade relations, they also provided assistance to Hong Kong residents in distress in the Mainland. Through the immigration divisions deployed by the Immigration Department, practical assistance provided by the HKSAR Government to Hong Kong residents in distress in the Mainland included issuing Entry Permits to Hong Kong residents who had lost their identity documents for returning to Hong Kong; and notifying relatives of the parties concerned and giving advice on procedural matters if the parties concerned were involved in a serious accident

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or become a casualty. As regards Hong Kong residents detained in the Mainland, PSCMA said that the Mainland and the Hong Kong Police had put in place a reciprocal notification mechanism for cases involving imposition of criminal compulsory measures on residents from the other side.

*Human rights*

14. Ms Emily LAU and Mr LEE Cheuk-yan enquired about the Administration's latest position in the light of the remarks made by CE on withdrawing from the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention"). SCMA said that the Convention had applied to Hong Kong since 1992, and stressed that the HKSAR Government would act in accordance with the law in implementing its obligations under the Convention. Ms LAU suggested that the Administration might issue a press release to clarify its position on the matter.

*Anti-discrimination on grounds of sexual orientation and gender identity*

15. Mr WONG Yuk-man, Mr CHAN Chi-chuen and Ms Cyd HO considered it unacceptable that there was no progress in enacting legislation to prohibit discrimination on the grounds of sexual orientation and gender identity. Mr CHAN urged the Administration to launch a public consultation exercise on enacting legislation in this area. Dr Priscilla LEUNG stressed 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 BL 32.

16. The Under Secretary for Constitutional and Mainland Affairs ("USCMA") said that the Advisory Group on Eliminating Discrimination against Sexual Minorities had recommended specific strategies and measures to tackle the discrimination issues and the recommendations would be presented at the next meeting. As for the issue of enacting legislation to prohibit discrimination on the grounds of sexual orientation and gender identity, he advised that there were divergent views among members of the Advisory Group and in society.

17. Referring to a recent judicial review case filed against the Government's refusal to recognize the applicant's same-sex marriage, Ms Cyd HO said that the Government might need to consider the follow-up actions it should take in case the Government lost the lawsuit. Ms HO also asked why an open recruitment exercise was conducted for the position of the Chairperson of

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EOC. SCMA said that the Administration conducted open recruitment for the post in line with the established procedures. Ms HO requested the Administration to report the outcome of the recruitment exercise at an appropriate juncture.

**IV. Review on the election expenses limits ("EELs") for the 2016 Election Committee ("EC") subsector elections and the 2017 CE election**

[LC Paper Nos. CB(2)620/15-16(01) and CB(2)649/15-16(04)]

18. USCMA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)620/15-16(01)].

Discussion

19. Ms Emily LAU considered that as EC was composed of only 1 200 members, the amount of election expenses should not be large and EEL for the CE election should be reduced instead. For the EC subsector elections, she pointed out that according to Annex B to the Administration's paper, the average actual expense per candidate in the 2011 EC subsector elections was well below EEL for every subsector. She pointed out that even in the Information Technology subsector in which the highest average actual expense per candidate as a percentage of the relevant EEL had been reported, the average actual expense amounted to only 16.5% of EEL of that subsector.

20. USCMA explained that the maximum amount of election expenses for the CE election must be sufficient for candidates to publicize their election platforms to all residents of HKSAR through territory-wide electioneering activities. As regards the 2011 EC subsector elections, USCMA explained that the actual election expenses were far below EELs because some subsector elections were uncontested or not very competitive. Besides, many candidates in the same EC subsector had conducted joint promotion and electioneering activities, thereby lowering the election expenses per candidate. The Administration considered that EELs should be set at a level that would allow candidates to conduct sufficient electioneering activities if they preferred to campaign individually or saw a need for more publicity (such as in the case of new candidates). USCMA said that as there would be no substantial change to the electorate of the EC subsectors for the 2016 EC subsector elections, and the number of EC members to be returned from each EC subsector would remain unchanged, the Administration considered that there was no need to adjust EELs for the 2016 EC subsector elections, given the actual election expense pattern of the 2011 EC subsector elections.



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21. For the CE elections, Mr Paul TSE considered that setting such a limit was not absolutely necessary. He opined that candidates would be able to enhance the quality of their electioneering work and carry out more policy researches if they were allowed to spend more on relevant expense items. Mr TSE said that although the actual election expenses in the past EC subsector elections were below EEL for the respective subsectors, there was no need to adjust the amounts so that electioneering activities conducted by candidates would not be unnecessarily restricted.

22. Mr WONG Ting-kwong considered that the existing mechanism for setting EEL for the CE election had worked well. Mr WONG and Mr IP Kwok-him considered that there was no need to introduce any change to the mechanism since the method for selecting the fourth term CE in 2012 would continue to apply in the 2017 CE election. They expressed support for the proposed adjustment to EEL for the 2017 CE election taking into account the latest rental figures and price level forecast of relevant categories of expenses. In response to Mr IP's enquiry, USCMA advised that since the proposed adjustment to EEL for the CE election was calculated from changes in rental and price level forecast obtained in the third and fourth quarters of 2015, the proposed amount of EEL would be subject to change with the most recent figures on rental figures/price level forecast available when the Administration introduced the legislative amendments to implement the proposed adjustment to EEL for the CE election.

**V. Any other business**

23. There being no other business, the meeting ended at 4:23 pm.

Council Business Division 2  
Legislative Council Secretariat  
23 March 2016