

**立法會**  
**Legislative Council**

Ref : CB2/BC/3/18

LC Paper No. CB(2)1076/18-19  
(These minutes have been seen  
by the Administration)

**Bills Committee on National Anthem Bill**

**Minutes of the first meeting**  
**held on Tuesday, 19 February 2019, from 4:45 pm to 6:45 pm**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)  
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)  
Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon CHAN Kin-por, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, BBS, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki

Hon KWOK Wai-keung, JP  
Hon Dennis KWOK Wing-hang  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, BBS, JP  
Dr Hon CHIANG Lai-wan, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Hon CHAN Chun-ying, JP  
Hon Tanya CHAN  
Hon HUI Chi-fung  
Hon LUK Chung-hung, JP  
Hon LAU Kwok-fan, MH  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Gary FAN Kwok-wai  
Hon AU Nok-hin  
Hon Vincent CHENG Wing-shun, MH  
Hon Tony TSE Wai-chuen, BBS  
Hon CHAN Hoi-yan

**Members absent** : Dr Hon Fernando CHEUNG Chiu-hung  
Hon YUNG Hoi-yan  
Hon Kenneth LAU Ip-keung, BBS, MH, JP

**Public Officers attending** : Mr Patrick NIP Tak-kuen, JP  
Secretary for Constitutional and Mainland Affairs  
  
Mr Roy TANG Yun-kwong, JP  
Permanent Secretary for Constitutional and Mainland Affairs

Ms Cordelia LAM Wai-ki  
Principal Assistant Secretary for Constitutional and Mainland  
Affairs

Ms Jocelyn NG Wai-chung  
Assistant Secretary for Constitutional and Mainland Affairs

Mr Lawrence PENG Si-yun  
Deputy Law Draftsman (Acting)  
Department of Justice

Mr Jonathan LUK King-hang  
Senior Government Counsel  
Department of Justice

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

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

Miss Rachel DAI  
Assistant Legal Adviser 2

Ms Jasmine TAM  
Senior Council Secretary (2) 3

Mr Dennis HO  
Council Secretary (2) 3

Mrs Fonny TSANG  
Legislative Assistant (2) 3

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## **I. Election of Chairman**

### Election of Chairman

Mr James TO, the member who had the highest precedence in Council among members of the Bills Committee present, presided over the election of the Chairman. He invited nominations for the chairmanship of the Bills Committee.

2. Two valid nominations were made for the chairmanship of the Bills Committee. Mr Martin LIAO was nominated by Mr CHAN Hak-kan and the

Action

nomination was seconded by Mr Jeffrey LAM. Mr Martin LIAO accepted the nomination. Mr Dennis KWOK was nominated by Mr Alvin YEUNG and the nomination was seconded by Mr Kenneth LEUNG. Mr Dennis KWOK accepted the nomination.

3. Ms Claudia MO proposed that the two candidates be invited to answer questions from members. As there were divided views among members, Mr James TO ordered that a vote be taken on the proposal by using the Electronic Voting System. The result was that 20 members voted for and 33 members voted against the proposal, and no member abstained from voting (details of division attached at **Annex I**). Mr James TO declared that the proposal was vetoed.

4. Mr James TO announced a vote by secret ballot. 35 and 23 members voted for Mr Martin LIAO and Mr Dennis KWOK respectively. Mr James TO declared Mr Martin LIAO elected as the Chairman of the Bill Committee. Mr Martin LIAO then took the chair.

Election of Deputy Chairman

5. Members agreed to elect a Deputy Chairman of the Bills Committee. The Chairman invited nominations for the deputy chairmanship of the Bills Committee.

6. Two valid nominations were made for the deputy chairmanship of the Bills Committee. Mr CHEUNG Kwok-kwan was nominated by Mr Steven HO and the nomination was seconded by Mr LUK Chung-hung. Mr CHEUNG Kwok-kwan accepted the nomination. Mr Dennis KWOK was nominated by Ms Claudia MO and the nomination was seconded by Mr Kenneth LEUNG. Mr Dennis KWOK accepted the nomination.

7. The Chairman announced a vote by secret ballot. 35 and 23 members voted for Mr CHEUNG Kwok-kwan and Mr Dennis KWOK respectively. The Chairman declared Mr CHEUNG Kwok-kwan elected as the Deputy Chairman of the Bill Committee.

**II. Meeting with the Administration**

[File Ref: CMAB E4/1/1, LC Paper Nos. CB(3)307/18-19, LS42/18-19, CB(2)811/18-19(01) and CB(2)811/18-19(02)]

8. The Bills Committee deliberated (index of proceedings attached at **Annex II**).

Action

Follow-up actions required of the Administration

9. The Administration was requested to provide information in writing on the following issues raised by members:

- Admin
- (a) how the Administration had consulted the judiciary and the legislature on the proposals to include the oath-taking ceremony for taking the Judicial Oath and the oath-taking ceremony for taking the Legislative Council ("LegCo") Oath in Schedule 3 to the Bill respectively; and
  - (b) details of the enforcement actions taken by the Mainland authorities against breaches of the Law of the People's Republic of China on the National Anthem, including statistics on arrests and prosecution, as well as convictions and penalties levied.

Invitation of public views

Clerk

10. Members agreed to receive public views on the Bill. The Chairman said that a meeting would be scheduled for the purpose and members would be informed of the meeting arrangements in due course. The Chairman further said that in line with usual practice, a notice to invite views from the public would be posted on the LegCo website and the 18 District Councils would also be invited to submit their views.

Date of next meeting

11. Members agreed that the next meeting would be held on Friday, 1 March 2019, at 8:30 am.

**III. Any other business**

12. There being no other business, the meeting ended at 6:38 pm.

Council Business Division 2

Legislative Council Secretariat

22 March 2019

點名表決 DIVISION: 1  
日期 DATE: 19/02/2019  
時間 TIME: 04:54:25 下午 PM

動議 MOTION: 建議邀請《國歌條例草案》委員會主席一職的候選人回答委員的提問  
Proposal to invite candidates for the chairmanship of the Bills Committee on National Anthem Bill to answer questions from members

動議人 MOVED BY:

出席 Present : 55  
投票 Vote : 53  
贊成 Yes : 20  
反對 No : 33  
棄權 Abstain : 0  
結果 Result : 否決 Negatived

個別表決如下 THE INDIVIDUAL VOTES WERE AS FOLLOWS:

議員	MEMBER	投票	VOTE	議員	MEMBER	投票	VOTE
涂謹申	James TO	出席	PRESENT	葉建源	IP Kin-yuen	贊成	YES
梁耀忠	LEUNG Yiu-chung	贊成	YES	葛珮帆	Dr Elizabeth QUAT	反對	NO
張宇人	Tommy CHEUNG	反對	NO	廖長江	Martin LIAO		
李國麟	Prof Joseph LEE			蔣麗芸	Dr CHIANG Lai-wan	反對	NO
林健鋒	Jeffrey LAM	反對	NO	盧偉國	Ir Dr LO Wai-kwok	反對	NO
黃定光	WONG Ting-kwong	反對	NO	楊岳橋	Alvin YEUNG	贊成	YES
李慧琼	Starry LEE	反對	NO	尹兆堅	Andrew WAN	贊成	YES
陳克勤	CHAN Hak-kan	反對	NO	朱凱迪	CHU Hoi-dick	贊成	YES
陳健波	CHAN Kin-por	反對	NO	吳永嘉	Jimmy NG	反對	NO
梁美芬	Dr Priscilla LEUNG	反對	NO	何君堯	Dr Junius HO	反對	NO
黃國健	WONG Kwok-kin	反對	NO	何啟明	HO Kai-ming	反對	NO
葉劉淑儀	Mrs Regina IP	反對	NO	林卓廷	LAM Cheuk-ting	贊成	YES
謝偉俊	Paul TSE			周浩鼎	Holden CHOW	反對	NO
毛孟靜	Claudia MO	贊成	YES	邵家輝	SHIU Ka-fai	反對	NO
田北辰	Michael TIEN			邵家臻	SHIU Ka-chun	贊成	YES
何俊賢	Steven HO	反對	NO	柯創盛	Wilson OR	反對	NO
易志明	Frankie YICK	反對	NO	容海恩	YUNG Hoi-yan		
胡志偉	WU Chi-wai	贊成	YES	陳振英	CHAN Chun-ying	反對	NO
姚思榮	YIU Si-wing	反對	NO	陳淑莊	Tanya CHAN	贊成	YES
馬逢國	MA Fung-kwok			張國鈞	CHEUNG Kwok-kwan	反對	NO
莫乃光	Charles Peter MOK	贊成	YES	許智峯	HUI Chi-fung	贊成	YES
陳志全	CHAN Chi-chuen	贊成	YES	陸頌雄	LUK Chung-hung	反對	NO
陳恒鎮	CHAN Han-pan	反對	NO	劉國勳	LAU Kwok-fan	反對	NO
梁志祥	LEUNG Che-cheung	反對	NO	劉業強	Kenneth LAU		
梁繼昌	Kenneth LEUNG	贊成	YES	鄭松泰	Dr CHENG Chung-tai	贊成	YES
麥美娟	Alice MAK	反對	NO	鄭俊宇	KWONG Chun-yu	贊成	YES
郭家麒	Dr KWOK Ka-ki			譚文豪	Jeremy TAM	贊成	YES
郭偉強	KWOK Wai-keung	反對	NO	范國威	Gary FAN	贊成	YES
郭榮鏗	Dennis KWOK	出席	PRESENT	區諾軒	AU Nok-hin	贊成	YES
張華峰	Christopher CHEUNG	反對	NO	鄭泳舜	Vincent CHENG	反對	NO
張超雄	Dr Fernando CHEUNG			謝偉銓	Tony TSE	反對	NO
黃碧雲	Dr Helena WONG	贊成	YES	陳凱欣	CHAN Hoi-yan	反對	NO

**Proceedings of the first meeting of the  
Bills Committee on National Anthem Bill  
on Tuesday, 19 February 2019, from 4:45 pm to 6:45 pm  
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
000414 – 002451	Members	Election of Chairman	
002452 - 003743	Chairman Members	Election of Deputy Chairman	
003744 - 004910	Chairman Administration	Briefing by the Administration on the National Anthem Bill ("the Bill").	
004911 - 005342	Chairman Mr KWONG Chun-yu Administration	<p>Mr KWONG Chun-yu said that many people were worried that they might violate the law inadvertently if the Bill was passed. He enquired whether the occasions on which the national anthem must be played and sung were limited to those set out in Schedule 3 to the Bill, and the factors to be taken into account by the Chief Executive ("CE") in Council in deciding what other occasions should be included in Schedule 3.</p> <p>The Administration said that while Schedule 3 set out the occasions on which the national anthem must be played and sung, clause 6 of the Bill provided that the national anthem, or its lyrics or score, must not be used for certain purposes or on certain occasions. Other than these, the host organizations of events or activities might also decide on their own whether the national anthem should be played and sung.</p> <p>The Administration further said that where the national anthem was played and sung, a participant of the event might be held liable if he/she publicly and intentionally performed acts to insult the national anthem. The Administration pointed out that part 2 of the Bill provided the standard, etiquette and occasions for the playing and singing of the national anthem. However, all of these provisions were "directional" and did not carry any penalty. The Administration stressed that if a person attending an occasion where the national anthem was performed or sung did not have the intention to deliberately insult the national anthem and did not engage in such behaviour, the person would not commit the relevant offence under the Bill.</p> <p>The Administration explained that Schedule 3 was drawn up making reference to Article 4 of the Law of the People's Republic of China on National Anthem ("National Anthem Law") and the occasions therein mainly included official occasions, major sporting events held by the Government, as well as the oath-taking ceremonies of the principal members of the executive authorities, the legislature and the judiciary of the Hong Kong Special Administrative Region ("HKSAR"). Schedule 3 could be amended by CE in Council by Gazette notice. Occasions that might be</p>	

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		<p>proposed to be added to Schedule 3 should be official occasions on which the playing and singing of the national anthem was warranted to manifest the solemnity of the occasions.</p>	
005343-005754	<p>Chairman Mr AU Nok-hin Administration</p>	<p>Mr AU Nok-hin pointed out that in response to a Legislative Council ("LegCo") question asked at the Council meeting of 10 February 1999, the then Secretary for Constitutional Affairs undertook that if any national law proposed to be added to Annex III to the Basic Law had any practical effect in HKSAR, the Government would refer the issue to the relevant LegCo Panel for discussion. As far as the inclusion of the National Anthem Law into Annex III to the Basic Law was concerned, he queried whether the Administration had breached the aforesaid undertaking.</p> <p>In reply to Mr AU's enquiry, the Administration confirmed that the Standing Committee of the National People's Congress ("NPCSC") had consulted its Committee for the Basic Law of HKSAR and the HKSAR Government in accordance with Article 18 of the Basic Law ("BL 18") before making the decision to add the National Anthem Law to Annex III to the Basic Law, and that the HKSAR Government agreed to the proposed addition.</p>	
005755 - 010202	<p>Chairman Dr Elizabeth QUAT Administration</p>	<p>Dr Elizabeth QUAT said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") supported the early passage of the Bill as the national anthem was the symbol of the nation and should be respected. She requested the Administration to clarify whether people passing by a place at which the national anthem was being played and sung would also have to observe the etiquette in clause 4(2) of the Bill.</p> <p>The Administration explained that under clause 4 of the Bill, persons who took part in or attended the occasion where the national anthem was played or sung were to stand solemnly and deport themselves with dignity. Patrons at restaurants where the national anthem was being played on the television were not taking part in or attending such an event and, therefore, did not need to stand up to show their respect for the national anthem.</p> <p>As for a person passing by a venue where the national anthem was being played and sung, the person would not breach the law if he/she did not publicly and intentionally perform any acts to insult the national anthem. Generally speaking, there were three elements for one's behaviour to constitute an offence of insulting the national anthem under the Bill, which were performing an "insulting act" and doing it "publicly" and "intentionally". The law enforcement agency would collect evidence, and prosecution would be made subject to circumstances and evidence. The court would consider each case based on facts and evidence and decide whether a particular case</p>	

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		<p>violated the law based on common law principles.</p> <p>Dr QUAT asked whether the above etiquette provision would apply to overseas visitors attending an occasion on which the national anthem was played and sung. The Administration responded that it trusted that most people would deport themselves respectfully when attending an occasion on which a country's anthem was being played and sung.</p>	
010203 - 010747	Chairman Mr IP Kin-yuen Administration	<p>Mr IP Kin-yuen said that while he agreed that the national anthem should be respected, he considered it necessary to ensure that people's rights and freedoms were protected under the Bill. The Administration assured members that the Bill was in conformity with the Basic Law, including the provisions concerning human rights. In drafting the Bill, the Administration had taken into account the principles laid down in a judgment of the Court of Final Appeal ("CFA") in 1999 and ensured that the restrictions imposed on freedom of speech and of expression under the Bill were proportional.</p> <p>While noting that the meaning of "insult" in relation to the national anthem was provided for in clause 7(8) of the Bill, Mr IP requested the Administration to explain, with examples, what would constitute an act of insulting the national anthem which would incur criminal liabilities under the Bill. The Administration explained that there was no statutory definition of the term "insult" although it was used in a number of pieces of local legislation. According to the common law principle, a term without a statutory definition should be given its natural and ordinary meaning and was to be interpreted in context. To provide a context in which to understand the Bill, it was provided in the Bill a definition of "insult" in relation to the national anthem and it was drawn up with reference to the aforesaid CFA's ruling.</p>	
010748 - 011255	Chairman Ms Claudia MO Administration	<p>Ms Claudia MO relayed the concerns expressed by foreigners and ethnic minority persons in Hong Kong who were permanent residents of HKSAR about the intent of the Bill stated in its Preamble that "the Ordinance was enacted to", among others, "promote patriotism".</p> <p>The Administration responded that as stated in the Preamble, "the Ordinance was enacted to", among others, "enhance citizen awareness of the People's Republic of China, and to promote patriotism". It was clear that "citizen" referred to "Chinese citizen" in this context. According to the Nationality Law of the People's Republic of China, people who were of Chinese descent and born in Chinese territory (including Hong Kong) were of Chinese nationality and were Chinese citizens. The term "Chinese citizen(s)" was also used in BL 44 and 67.</p>	
011256 - 011712	Chairman Dr CHENG Chung-tai	Dr CHENG Chung-tai said that people who opposed the Bill were mainly concerned that the Bill sought to	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
	Administration	<p>introduce criminal offences. These people, however, should not be regarded to be disrespectful to the national anthem.</p> <p>Dr CHENG questioned why a preamble was included in the Bill, whereas no such arrangement was made for the National Flag and National Emblem Ordinance ("NFNEO"). He also queried whether it was appropriate to incorporate in the Preamble wording such as "to enhance citizen awareness of the People's Republic of China" and "to promote patriotism", which in his view was vague and might create white terror. He said that in contrast, the offences under NFNEO were more concrete and clear, which were about specific acts such as burning or mutilating a national flag/national emblem.</p> <p>The Administration explained that the Preamble of the Bill served to provide a context in which to understand the provisions of the Bill, and that there were other pieces of local legislation which also included a preamble. The Administration further explained that the legislative principle of the Bill was to fully reflect the purpose and intent of the National Anthem Law while taking into account the common law system and the actual circumstances in Hong Kong. It was necessary to consider how each provision of the National Anthem Law was best reflected in the Bill. Having regard to the common law system and actual circumstances in Hong Kong, the Administration considered it appropriate to incorporate Articles 1, 3 and 5 of the National Anthem Law into the Preamble with suitable adaptation.</p>	
011713 - 012228	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG considered it necessary for the Secretary for Education ("SED") to attend a meeting to explain what directions he would give for the inclusion of the national anthem in primary education and in secondary education as required under clause 9 of the Bill.</p> <p>The Administration responded that clause 9 sought to reflect the requirement in Article 11 of the National Anthem Law that the teaching of the national anthem should be included in primary and secondary education, while taking into account the actual circumstances in Hong Kong. As the Education Bureau had already been giving directions in relation to the curricula of primary and secondary schools, the Administration considered it appropriate to incorporate the aforesaid requirement into the Bill by prescribing that SED must give directions for the inclusion of the national anthem in primary education and in secondary education.</p> <p>Referring to Schedule 3 to the Bill, Dr WONG enquired about the law enforcement at the sports venues concerned or the racecourse, e.g. whether surveillance cameras were planned to be installed there or whether the audience would not be allowed to wear face masks in future. Noting that the Bill also sought to prohibit a person from intentionally</p>	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
		<p>publishing (a) the altered lyrics or score of the national anthem, or (b) the national anthem played and sung in a distorted or disrespectful way, with intent to insult the national anthem, Dr WONG asked whether the Administration would conduct cyber patrol for that purpose and if so, the manpower to be deployed for this task.</p> <p>The Administration explained that it was proposed that the national anthem must be played and sung at major sports events held by the Government. As regards other sports events which were not held by the Government, the organizers concerned would have the discretion to decide whether the national anthem should be played and sung. In any case, a person who publicly and intentionally insulted the national anthem when the national anthem was played and sung might commit an offence under the Bill. The Police would conduct investigations and take necessary enforcement actions subject to the actual circumstances of each case and evidence.</p>	
012229 - 013131	Chairman Mr Alvin YEUNG Mr HUI Chi-fung Administration	<p>Mr Alvin YEUNG and Mr HUI Chi-fung considered that people should not be forced to respect the national anthem through law and punishment. Mr YEUNG expressed concern that it was unclear what constituted an "insult" to the national anthem under the Bill. He requested the Administration to explain why the Bill included a preamble whereas NFNEO did not. He was concerned that the Preamble of the Bill included expressions like "to enhance citizen awareness of the People's Republic of China" and "to promote patriotism" which were legally not enforceable.</p> <p>Mr HUI Chi-fung considered it unreasonable that people who did not sing the national anthem or stand still when the national anthem was played and sung might commit an offence under the Bill as this would, in his view, curtail Hong Kong people's freedom of speech and of expression. He pointed out that in some overseas jurisdictions, the relevant legislation did not carry any penalties. He also asked whether consideration would be given to providing a definition of "citizen" under the Bill.</p> <p>The Administration responded that following NPCSC's adoption of the decision to add the National Anthem Law to Annex III to the Basic Law, the HKSAR Government had a constitutional duty under BL 18(2) to implement the National Anthem Law locally by way of promulgation or legislation. Having regard to the common law system in Hong Kong as well as the local actual circumstances, the HKSAR Government decided to implement the National Anthem Law in HKSAR by local legislation instead of by promulgation.</p> <p>The Administration further explained that apart from providing guidance to promote respect for the national anthem, the Bill also sought to prohibit acts that were carried out publicly with the intention to insult the national</p>	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
		<p>anthem. The Administration considered it necessary to provide for penalties for such acts so as to achieve deterrent effect.</p> <p>As regards concern about the meaning of "insult" under the Bill, the Administration pointed out that as earlier said, the term was also used, without being defined, in a number of pieces of local legislation. According to the common law principle, the term should then be interpreted in context, and the court had accumulated experience in this regard. That said, a definition of "insult" was provided in the Bill to make it clear that in the context of this Bill, "insult" meant to "undermine the dignity of the national anthem as a symbol and sign of the People's Republic of China". This was aimed to provide a clear basis for the court to interpret whether a specific act constituted an insult to the national anthem.</p> <p>As regards the Preamble of the Bill, the Administration explained that the Bill had to fully reflect the purpose and intent of the National Anthem Law. Having regard to the common law system and the actual circumstances in Hong Kong, the Administration intended that the Preamble, which set out certain information by adapting Articles 1, 3 and 5 of the National Anthem Law, could provide a context in which to understand the Bill.</p> <p>As regards concern that people might have performed an act of insulting the national anthem inadvertently, the Administration explained that the threshold of the relevant offence under the Bill was high. It would require the burden of proof for establishing criminal liability by the prosecution. The Administration considered that the restrictions imposed under the Bill were proportional, as they only limited the way of expression but not the content.</p> <p>The Administration advised that in addition to penal provisions, the Bill contained directional provisions to guide the public to respect the national anthem. Apart from enacting the Bill, the Administration would step up efforts in education and publicity to promote respect for the national anthem.</p>	
013132 - 013614	Chairman Mr Dennis KWOK Administration	<p>In reply to Mr Dennis KWOK's enquiry, the Administration advised that Schedule 3 to the Bill was drafted with reference to Article 4 of the National Anthem Law. The judiciary had been consulted on the proposal to include the oath-taking ceremony for taking the Judicial Oath in Schedule 3 to the Bill and it agreed to the proposal. In response to Mr KWOK's query about why the legislature had not been consulted on the proposal to include the oath-taking ceremony for taking the LegCo Oath in Schedule 3 to the Bill, the Secretary for Constitutional and Mainland Affairs confirmed that he had mentioned the proposal to the LegCo President before the Bill was introduced into LegCo.</p>	

Time Marker	Speaker(s)	Subject(s)/Discussion	Action required
013615 - 014025	Chairman Mr Holden CHOW Administration	<p>Mr Holden CHOW considered that to ensure consistency, the national anthem should be played and sung at the oath-taking ceremonies of the executive authorities, the legislature and the judiciary. He did not subscribe to the view that people might violate the law inadvertently if the Bill was passed, adding that the Bill would only impose sanctions on intentional acts of insulting the national anthem. He considered that non-Chinese students in Hong Kong should also show respect for the national anthem when it was played and sung.</p> <p>In reply to Mr CHOW's enquiry, the Administration said that the Government had not considered any occasions, places or purposes prohibited for the use of the national anthem other than those specified in clause 6(1) and (2) at the moment.</p>	
014026 - 014558	Chairman Mr CHU Hoi-dick Administration	<p>In reply to Mr CHU Hoi-dick's enquiry, the Administration said that it had not formally consulted LegCo on the proposal to include the oath-taking ceremony for taking the LegCo Oath in Schedule 3 to the Bill. However, the Administration had informally consulted various political parties and LegCo Members on the proposal. At the Chairman's request, the Administration agreed to provide information in writing on how it had consulted the judiciary and the legislature on the proposal.</p>	<b>Admin</b> (para 9(a) of minutes)
014559 - 015142	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen requested the Administration to provide details of the enforcement actions taken by the Mainland authorities against breaches of the National Anthem Law after it had come into force nationwide since 1 October 2017, including relevant statistics on arrests and prosecution, as well as convictions and penalties levied.</p> <p>Mr CHAN sought clarification on whether the Bill was made not only to preserve the dignity of the national anthem but also to "promote patriotism" as stated in the Preamble of the Bill. He further asked whether the Preamble had any legal binding effect.</p> <p>The Administration explained that a preamble formed part of the legislation and served to provide a context in which to understand the provisions of the legislation concerned. As a preamble did not contain penalties, it had no legal binding effect. The Chairman said that he and the Legal Adviser to the Bills Committee were both of the view that a preamble was not intended for enforcement but served only to provide background information to facilitate understanding of the purpose of the legislation.</p> <p>The Administration explained that despite it was mentioned in the Preamble that "to promote patriotism" was one of the purposes of the Bill, there was no question of forcing people to be patriotic by enacting the Bill, as the penal provisions of the Bill were designed to deal with those who had an intent to insult the national anthem and performed acts publicly and intentionally to insult the</p>	<b>Admin</b> (para 9(b) of minutes)

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
		national anthem, as well as misuse of the national anthem. The Bill was meant both to guide people to respect the national anthem and to deter insulting behaviour against the national anthem.	
015143 - 015618	Chairman Ms Starry LEE Administration	Ms Starry LEE said that Members belonging to DAB supported the early passage of the Bill. Regarding the proposal to include the oath-taking ceremony for taking the LegCo Oath in Schedule 3 to the Bill, she doubted whether it should be Members of the current term of LegCo to be consulted as the proposal would, rather, impact on those of the next term. Besides, there was time for members to discuss Schedule 3 in detail during the scrutiny of the Bill.	
015619 - 015716	Chairman Members	Members' agreement to receive public views on the Bill  Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
22 March 2019