

立法會
Legislative Council

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LC Paper No. CB(2)1938/18-19
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 15 April 2019, from 2:00 pm to 4:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHEUNG Kwok-kwan, JP (Chairman)
Hon LUK Chung-hung, JP (Deputy Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, 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 Steven HO Chun-yin, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Alice MAK Mei-kuen, BBS, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon AU Nok-hin

- Members attending** : Hon WU Chi-wai, MH
Dr Hon Fernando CHEUNG Chiu-hung
Hon KWONG Chun-yu
- Members absent** : Hon Dennis KWOK Wing-hang
Hon Martin LIAO Cheung-kong, SBS, JP
Hon Tanya CHAN
- Public Officers attending** : Item III
- Mr Matthew CHEUNG Kin-chung, GBM, GBS, JP
Chief Secretary for Administration
- Mr Andy CHAN Shui-fu, JP
Under Secretary for Constitutional and Mainland Affairs
- Miss Mabel LI Po-yi, JP
Deputy Commissioner (Labour Administration)
- Ms Judy CHUNG Sui-kei
Principal Assistant Secretary (Constitutional and
Mainland Affairs)
- Mr Andrew TSANG Yue-tung
Principal Assistant Secretary (Security)E
- Mr Billy WOO Tak-ying
Principal Assistant Secretary for Security
(Review)(Special Duties)
- Mr Godfrey KAN Ka-fai
Senior Assistant Solicitor General
Department of Justice
- Miss Cathy LI King-tsz
Assistant Secretary (Constitutional and Mainland Affairs)
- Item IV
- Mr Patrick NIP Tak-kuen, JP
Secretary for Constitutional and Mainland Affairs
- Miss Rosanna LAW Shuk-pui, JP
Deputy Secretary for Constitutional and Mainland Affairs

Mr WONG See-man
Chief Electoral Officer
Registration and Electoral Office

Mr Raymond WANG Man-chiu
Principal Electoral Officer
Registration and Electoral Office

**Attendance by : Item III
invitation**

Hong Kong UPR Coalition

Simon HENDERSON

Les Corner Empowerment Association

YEO Wai-wai

Beyond the Boundary-Knowing and Concerns Intersex

Ms LUK Small-ela

Society for Community Organization

Mr Richard TSOI Yiu-cheong

Mr LEUNG Kwok-hung

PathFinders Limited

Ms Catherine GURTIN

Civic Party

Miss Gloria NG

Miss CHEUNG Sin-ying

Hong Kong Unison

Ms Phyllis CHEUNG Fung-mei

Miss CHAN Wing-yan

Miss WONG Tsz-yan

Miss Dholeeh Ann HIDALGO

Hong Kong Confederation of Trade Unions

Mr LAM Cho-ming

Disabilities CV

Ms CHEUNG Hing-yee

Justice Centre Hong Kong

Mr Nathan CHAN Sheung-hang

The Association for the Advancement of Feminism

Ms AU Mei-po

Hong Kong Women's Coalition on Equal Opportunities

Miss KAN Man-ki

Demosisto

Mr Joshua WONG

Miss Shelley LEUNG Wing-hang

Hong Kong Federation Of Asian Domestic Workers Unions

Mr WONG Hon-leung

Mr Harry HO Hei-yin

RainLily

Mr YAU Chi-hang

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

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

Ms Jasmine TAM
Senior Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

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

[LC Paper Nos. CB(2)1061/18-19, CB(2)1075/18-19(01) and CB(2)1144/18-19(01)]

The Panel noted that the following papers had been issued to members after the last meeting:

- (a) Electoral Affairs Commission Report on the 2018 Legislative Council Kowloon West Geographical Constituency By-election [LC Paper No. CB(2)1061/18-19];
- (b) letter dated 22 March 2019 from the Secretary for Constitutional and Mainland Affairs ("SCMA") on the appointment of Chairperson of the Equal Opportunities Commission ("EOC") [LC Paper No. CB(2)1075/18-19(01)]; and
- (c) letter dated 29 March 2019 from Hon CHU Hoi-dick [LC Paper No. CB(2)1144/18-19(01)].

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1179/18-19(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting on 20 May 2019 at 2:30 pm:

- (a) "Provisional recommendations on boundaries and names of geographical constituencies for the 2020 Legislative Council General Election"; and
- (b) "Briefing by the Chairperson of the Equal Opportunities Commission".

III. The Third Review of the Hong Kong Special Administrative Region by the Working Group on the Universal Periodic Review of the United Nations Human Rights Council

[LC Paper Nos. CB(2)1179/18-19(03) and (04)]

Meeting with deputations and the Administration

3. The Chief Secretary for Administration ("CS") said that the United Nations Human Rights Council ("UNHRC") recently conducted its third review of the People's Republic of China under the Universal Periodic Review

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("UPR") mechanism. Based on the requirement, China submitted a 20-page national report to UNHRC, which included a three-page section relevant to the Hong Kong Special Administrative Region ("HKSAR") that was directly contributed by the HKSAR Government ("the Third Report"). The section on HKSAR covered the legal framework for the protection of human rights in Hong Kong and various measures for promoting human rights introduced since the last review. These included the establishment of a Commission on Children, a Steering Committee on Ethnic Minority Affairs, promulgation of an Action Plan to Tackle Trafficking-in-Persons and to Enhance Protection of Foreign Domestic Helpers ("FDHs") in Hong Kong, etc. At its meeting on 15 March 2019, UNHRC adopted the report by its Working Group on UPR ("the Working Group") on the third review on HKSAR held on 6 and 9 November 2018 in Geneva. CS briefed members on the outcome of the third review on HKSAR as set out in the Administration's paper [LC Paper No. CB(2)1179/18-19(03)]. He also referred members to Annex F to the paper for details of HKSAR's stance on the recommendations relating to HKSAR covered in the Working Group's report.

4. CS said that Hong Kong was a highly international and open financial and business centre, a thriving logistics and tourism hub, as well as one of the safest cities in the world. The Heritage Foundation of the United States had been ranking Hong Kong the world's freest economy for 25 consecutive years. In further promoting Hong Kong's economic development, the HKSAR Government continued to devote significant resources in education, medical services, welfare, infrastructure, poverty alleviation, helping the ethnic minorities, improving people's livelihood, promoting children's well-being, protecting the rights of all workers (including that of FDHs and migrant workers) with a view to building a caring, inclusive and equitable society. These achievements were underpinned by Hong Kong's core values, unique institutional strengths and diversity that enabled the city to forge ahead.

5. The Panel received views from 22 deputations/individuals on the third review on HKSAR by the Working Group. A summary of views expressed by these deputations/individuals is in the **Appendix**.

Administration's response to deputations' views

6. In response to the views expressed by the deputations/individuals, CS made the following points:

- (a) the allegation that the HKSAR Government had misled UNHRC about the human rights situation in Hong Kong was unfounded. On the contrary, the HKSAR Government had provided full and concrete response to the questions and recommendations made

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by Member States, including its position on each of the recommendations;

- (b) issues relating to the implementation of the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of All Forms of Discrimination Against Women in Hong Kong were reported to the respective committees of the United Nations ("UN");
- (c) the Government attached great importance to enhancing the protection of FDHs in Hong Kong. Apart from the various measures introduced by the Labour Department to promote the employment rights of FDHs, an Action Plan to Tackle Trafficking-in-Persons and to Enhance Protection of FDHs in Hong Kong was promulgated in March 2018 by a high-level inter-bureau/departmental steering committee chaired by CS to spearhead efforts of the HKSAR Government on these fronts;
- (d) on employees' rights and benefits, since the implementation of the Statutory Minimum Wage ("SMW") regime in 2011, the SMW rate had been raised three times in 2013, 2015 and 2017 following regular reviews. Besides, the Government had introduced legislation to increase the statutory paternity leave from three to five days, and was proceeding with a proposal to increase the statutory maternity leave from 10 to 14 weeks. The Government had also announced the enhanced arrangements for the abolition of using employers' mandatory contributions under the Mandatory Provident Fund System to offset severance payment/long service payment and was taking forward the relevant preparatory work; and
- (e) the Government was firmly committed to promoting the rights of children and honouring its obligations under the Convention on the Rights of the Child ("CRC") through legislation, policies and practices. The concept of child protection was an essential consideration in the relevant decision-making of the Government, both in the formulation of policies and preparation of legislative proposals on matters relating to or affecting children. The Government had been taking extensive measures in various policy areas, such as education, health and welfare, to enhance the rights and well-being of children. It should also be noted that the Commission on Children, a high-level advisory body chaired by CS and comprising both official and non-official members, was established in June 2018 to develop policies and set

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strategies and priorities related to the development and promotion of the well-being of children at different stages of their growth.

Discussion

7. Mr AU Nok-hin considered that there had been no improvement at all and even retrogression in Hong Kong's human rights condition since the Working Group's last review on HKSAR in 2013. He expressed strong dissatisfaction that the HKSAR Government had failed to implement the recommendations made by various committees of UN concerning HKSAR, including those relating to the review of application of the term "unlawful assembly" in the Public Order Ordinance (Cap. 245), the enactment of legislation to outlaw discrimination on the ground of sexual orientation and gender identity, the implementation of universal suffrage, and the protection of the right of children of all ethnicities to inclusive and Chinese-language education. He also criticized the Constitutional and Mainland Affairs Bureau ("CMAB") for changing the background colour of the cover of the comic booklet on CRC and the colour of the umbrella held by the children in the booklet from yellow to blue, which in his view clearly carried political connotation.

8. Ms Claudia MO and Mr HUI Chi-fung commented that it was shameful on the part of the HKSAR Government to claim to UNHRC that Hong Kong people continued to enjoy the freedom of expression and press freedom, and that the HKSAR Government had been successfully implementing "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy as well as upholding the rule of law in Hong Kong. They considered that various incidents, including barring individuals advocating particular political beliefs from running in public elections, the disqualification of Legislative Council Members, banning the Hong Kong National Party, the Government's refusal to renew the work visa of foreign journalist Mr Victor Mallet, the Interpretation of Article 104 of the Basic Law by the Standing Committee of the National People's Congress, the alleged interference in Hong Kong's affairs by the Liaison Office of the Central People's Government in HKSAR, and political prosecution by the Government against protestors, clearly reflected a marked decline in the human rights situation and the rule of law in Hong Kong. CS dismissed any allegation that the HKSAR Government had misled UNHRC. He stressed that the HKSAR Government had taken the opportunity to clarify misunderstandings and cleared the air on some controversial political issues concerning Hong Kong.

9. Mr LAM Cheuk-ting said that he was unconvinced by the statement made by the HKSAR Government in the Third Report that human rights and

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freedoms in Hong Kong were fully protected by the laws of Hong Kong. He pointed out that Hong Kong was ranked 73rd in the 2019 World Press Freedom Index, which was lower than the ranking of many countries in Eastern Europe. He further said that according to a report published by an international human rights organization, Hong Kong was graded as "partly free" and ranked 111th in the world in terms of level of freedom in 2019. Dr CHENG Chung-tai also expressed dissatisfaction that the HKSAR Government's response had not directly addressed the four specific questions raised by Member States prior to the Working Group's hearing regarding the freedom of expression and press freedom in Hong Kong. He requested CS to explain what measures were in place to ensure that local and foreign journalists were free from political interference in their reporting work in Hong Kong.

10. CS said that as he had explained to UNHRC, the HKSAR Government was firmly committed to protecting the freedom of expression, of assembly and of the press, which was guaranteed by the Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383). He stressed that Hong Kong people did enjoy such freedom but, like any other jurisdictions, such freedom was not absolute. The International Covenant on Civil and Political Rights provided that restrictions might be imposed by law if this was necessary to protect national security or public safety, public order, or the rights and freedoms of others. As regards press freedom, CS pointed out that there was no press censorship in Hong Kong and the Government did not interfere with the operations of media organizations. The Government had maintained an environment conducive to the operation of a free and active press. Some 80 foreign media organizations operated in Hong Kong and rigorously performed their role as a watchdog.

11. Ms Claudia MO and Mr LAM Cheuk-ting expressed grave concern that the Administration's proposals to amend the Fugitive Offenders Ordinance (Cap. 503) and the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), which would enable transfer of suspects to the Mainland for trial, would pose serious threats to the human rights protection of Hong Kong people. CS explained that the relevant proposals sought to plug the loopholes in the existing legislation so as to ensure due administration of justice and prevent Hong Kong from becoming a haven for criminals.

12. Dr Fernando CHEUNG sought CS's response to (a) the proposals put forth by Hong Kong UPR Coalition regarding the establishment of a UPR advisory group and a human rights database to, among others, monitor the implementation of recommendations made on HKSAR under the UPR mechanism [LC Paper No. CB(2)1200/18-19(01)]; and (b) the concerns expressed by Pathfinders Limited over the difficulties faced by pregnant

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FDHs and their children born in Hong Kong [LC Paper No. CB(2)1179/18-19(06)]. He also urged CS to respond to the request of some deputations for enacting specific legislation to implement CRC in Hong Kong.

13. CS said that CMAB had met with Hong Kong UPR Coalition to discuss the proposals concerned and would maintain communication with the Coalition on relevant issues. The fact that the delegation of the HKSAR Government was led by CS to attend the Working Group's meeting and UNHRC's plenary meeting in Geneva clearly reflected the importance attached by the HKSAR Government to the promotion and protection of human rights in Hong Kong. CS further said that relevant government departments had communicated with Pathfinders Limited regarding its concerns. The Government would examine whether and how collaboration among relevant government departments on the provision of services to FDHs and their children born in Hong Kong could be strengthened. As regards concerns about the implementation of CRC in Hong Kong, CS said that the Government would ensure that the principles laid down in CRC were adhered to as fully as possible in formulating long-term targets and strategic directions concerning the holistic development and promotion of the well-being of children.

14. Mr CHAN Chi-chuen noted with concern that despite the fact that UN had repeatedly asked the HKSAR Government to legislate to protect sexual minorities against discrimination, the HKSAR Government did not mention how it would follow up the matter in the Third Report. He stressed that as the proposal of enacting legislation to outlaw discrimination on grounds of sexual orientation and gender identity had gained 70% of public support, the Government should take forward the legislative exercise expeditiously.

15. CS said that the Government was committed to promoting equal opportunities for people of different sexual orientations and transgender persons on the basis of upholding the existing institution of monogamy and heterosexual marriage. With this aim in mind, the Government had been proactively promoting the culture and values of inclusiveness, mutual respect and non-discrimination through various measures, including promoting the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation. CS further said that given the controversial nature and complexity of the issue of outlawing discrimination on the grounds of sexual orientation and gender identity, it was necessary for the Government to handle the issue in a prudent manner. The Government would map out the way forward in the light of the findings of its study on the experience of other jurisdictions' legislative and administrative measures to eliminate such discrimination.

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16. Dr Priscilla LEUNG said that while EOC was tasked to promote equal opportunities in Hong Kong, she considered it highly inappropriate for the Chairperson of EOC to publicly express support for enacting legislation on same-sex marriage, given that no public consensus had been reached on the issue. In her view, EOC was biased towards the sexual minorities in following up issues relating to legal protection for sexual minorities and in presenting the findings of the relevant surveys to the public. She stressed that EOC was a publicly-funded body and it should carry out its work in a fair and impartial manner. The Under Secretary for Constitutional and Mainland Affairs responded that EOC was an independent statutory body responsible for the implementation of anti-discrimination ordinances and promotion of equal opportunities in Hong Kong. He added that the new Chairperson of EOC had publicly stated that the key focuses of EOC included, among others, stepping up efforts in preventing sexual harassment and promoting equal opportunities for ethnic minorities. The Chairperson of EOC also welcomed opportunities to communicate with different stakeholders in taking forward EOC's work.

IV. Loss of a Register of Electors of the Registration and Electoral Office and follow-up measures

[LC Paper Nos. CB(2)1200/18-19(02) to (08) and CB(2)1220/18-19(01) to (03)]

17. The Secretary for Constitutional and Mainland Affairs ("SCMA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1220/18-19(01)] on the incident that the Registration and Electoral Office ("REO") lost a Register of Electors relating to the 2016 Legislative Council ("LegCo") General Election ("the incident"). The incident involved the Register of Electors of the polling station located at SKH Tsing Yi Estate Ho Chak Wan Primary School in Kwai Tsing District in the said general election.

Discussion

18. Mr KWONG Chun-yu, Dr Helena WONG, Ms Alice MAK, and Ms Starry LEE considered that the incident had further undermined public confidence in the capability of REO of handling voter registration ("VR") information which involved sensitive personal data, as this was the second time REO had lost the personal data of electors in recent years. Mr Christopher CHEUNG considered that the loss of the Register was a very serious incident and enquired about the follow-up measures taken by the Administration.

19. SCMA apologized to the electors concerned for the inconvenience and distress caused by the incident and for the Administration's failure to meet public expectations. He said that CMAB had requested REO to follow up on

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the matter in a very serious manner. The Administration would learn from the incident and take all necessary precautionary measures to prevent recurrence of similar incidents. SCMA further said that REO reported the incident to the Police and the Office of the Privacy Commissioner for Personal Data ("PCPD") in the morning of 9 April 2019. PCPD had initiated a compliance investigation on the incident. On 9 April 2019, REO issued letters to notify all affected electors to mitigate any possible damage brought about by the incident. At the same time, REO issued letters to various government departments and organizations which would likely process or receive personal data to appeal to their assistance in adopting appropriate measures to prevent criminals from using the relevant information as a means of identity theft in criminal activities. SCMA said that REO had completed reviewing the VR information of the affected electors on the Register in question, and confirmed that no irregularity had been detected. He added that REO had been contacting electors who had changed their registered residential address to verify their registration information.

20. Mr Charles MOK noted from the Administration's paper under discussion that law enforcement agency requested REO to make available the majority of Registers of Electors for inspection by phases after the completion of the LegCo General Election in September 2016. Mr MOK further noted that the request was from the Independent Commission Against Corruption ("ICAC"), which was reportedly connected to its investigation into a suspected vote-rigging case in the Information Technology functional constituency election, and he was one of the complainants of the case. He and Mr Alvin YEUNG expressed grave concern that REO had failed to report the loss of the Register until early April 2019 although it had all along been unable to locate the Register concerned. Mr LAM Cheuk-ting queried whether deliberate cover-up on the part of REO's personnel was involved in the incident. Dr CHENG Chung-tai was concerned that as it had already been more than two and a half years since the 2016 LegCo General Election, the electoral officers concerned would no longer be held liable for any offences that might arise from the incident in accordance with section 59 of the Legislative Council Ordinance (Cap. 542) ("LCO"), which stipulated that no person holding office as an election officer at an election would be liable to conviction for an offence under LCO unless the complaint or information alleging the offence was laid within three months after the date of the alleged commission of the offence.

21. SCMA said that REO would fully cooperate with the Police and PCPD in their investigations. SCMA informed members that the Electoral Affairs Commission ("EAC") would also conduct a comprehensive investigation and review of the incident to identify problems or loopholes relating to the

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electoral arrangements as well as overall management of REO with a view to recommending improvement measures. He explained that specific details of the incident, such as the circumstances under which the Register concerned was lost and the reasons for not reporting the loss by the relevant personnel, could only be ascertained after the comprehensive investigation. He further said that if it was found that deliberate cover-up or human errors were involved, the Administration would handle the matter in accordance with the established disciplinary mechanism.

22. The Chief Electoral Officer ("CEO") said that ICAC requested REO to make available the majority of Registers of Electors for inspection by phases after the 2016 LegCo General Election. Among others, ICAC requested in October 2016 to inspect the Register of Electors of the polling station located at SKH Tsing Yi Estate Ho Chak Wan Primary School in Kwai Tsing District. Given that a large number of polling stations as well as related materials and documents were involved in the general election, REO took some time for the search, but was unable to find the said Register in the process. CEO said that he had come to know about the possible loss of the Register in early April 2019. REO would conduct investigation to find out why it had taken a long time to confirm that the Register could not be found. In response to members' enquiries, CEO said that the relevant checklists of election materials for the polling station concerned and the other Registers of Electors in the election were not lost.

23. The Deputy Chairman was also concerned that the incident took more than two years from October 2016 to come to the knowledge of CEO. Mr Kenneth LAU and Dr Priscilla LEUNG took the view that it would be serious if civil servants were found to be involved in deliberate cover-up in the incident. Dr LEUNG considered that an overhaul of the electoral arrangements was necessary in order to restore public confidence in the electoral system. In her view, the Administration might also need to look into the staffing arrangements of REO. Ms Alice MAK said that the lost Register might have been stolen and urged the Administration to conduct interviews with those who were present at the polling station concerned in order to get to the bottom of the incident.

24. SCMA reiterated that the relevant investigation to be conducted by EAC aimed to identify the root causes of the incident. He said that before the full investigation was completed, it would not be appropriate to release partial information concerning the incident, lest it would affect the investigation. He assured members that REO would fully assist in the investigation by EAC, and make improvements to the electoral procedures and its internal management based on EAC's recommendations.

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(At 4:30 pm, the Chairman directed that the meeting be extended by 15 minutes beyond the appointed ending time)

25. Ms Starry LEE urged the Administration to seek ways to restore public confidence in REO in handling personal data of electors. SCMA and CEO replied that following the loss of two REO notebook computers in 2017, REO had reviewed and renewed the internal guidelines for using and handling electors' personal data and stepped up staff training on handling personal data. In response to Mr Kenneth LAU's enquiry, SCMA undertook to introduce necessary short-term precautionary measures in the 2019 District Council Ordinary Election and the 2020 LegCo General Election in the wake of the incident. Improvement measures involving major changes to the existing electoral arrangements would be carefully considered in the long run.

26. The Deputy Chairman expressed concern that the leaked personal data of electors (e.g. names, addresses and Hong Kong Identity Card numbers) might be fraudulently used by others for loan applications and asked whether the Administration would help the electors concerned recover any resulting financial loss. SCMA replied that such cases would be dealt with on a case by case basis in accordance with the law.

(At 4:42 pm, the Chairman proposed and members agreed to further extend the meeting by 15 minutes.)

27. In the light of the incident, Dr Helena WONG said that the Democratic Party opposed the Administration's plan to launch the pilot scheme of advance polling in the 2020 LegCo General Election, pointing out that the marked ballot papers used on the advance polling day would be exposed to high security risk. SCMA explained that the pilot scheme aimed at providing opportunities for civil servants who served as polling staff and were on shift on the polling day to cast their votes in advance. He added that in the light of the present incident, the Administration would take into full account various views expressed by members in mapping out the way forward of the pilot scheme.

V. Any other business

28. There being no other business, the meeting ended at 4:55 pm.

Panel on Constitutional Affairs

Meeting on Monday, 15 April 2019, from 2:00 pm to 4:30 pm

Meeting to receive views on "The Third Review of the Hong Kong Special Administrative Region by the Working Group on the Universal Periodic Review of the United Nations Human Rights Council"

Summary of views and concerns expressed by deputations/individuals

No.	Name of deputation / individual	Submission / Major views and concerns
1.	Hong Kong UPR Coalition	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1200/18-19(01) ● LC Paper No. CB(2)1417/18-19(01)
2.	Les Corner Empowerment Association	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1253/18-19(01)
3.	Beyond the Boundary-Knowing and Concerns Intersex	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(05)
4.*	Society for Community Organization	<ul style="list-style-type: none"> ● The Hong Kong Special Administrative Region ("HKSAR") Government's response to the recommendations made by Member States on HKSAR at the meeting of the Working Group on the Universal Periodic Review ("the Working Group") of the United Nations Human Rights Council ("UNHRC") as set out in Annex F to the Administration's paper [LC Paper No. CB(2)1179/18-19(03)] was deceptive and had not reflected the real human rights situation in Hong Kong. It was particularly unacceptable for the HKSAR Government to claim that the recommendation of introducing internal legislation to implement the Convention on the Rights of the Child ("CRC") put forward by Croatia ("Croatia's recommendation") was being implemented in Hong Kong, which was clearly not the case. ● The HKSAR Government should explain clearly how it would follow up the recommendations relating to HKSAR and report on the progress of relevant work in accordance with the relevant guidelines issued by the United Nations Office of the High Commissioner for Human Rights.
5.*	Mr LEUNG Kwok-hung	<ul style="list-style-type: none"> ● Instead of seeking to legislate for Article 23 of the Basic Law ("BL 23") which was expected to arouse huge controversies in Hong Kong, the HKSAR Government should launch afresh public consultation on constitutional development in the light of strong public aspiration for implementing universal suffrage for the selection of the Chief Executive and the formation of the Legislative Council ("LegCo"). ● Expressed grave concern that the Administration's proposals to amend the Fugitive Offenders Ordinance (Cap. 503) and the

No.	Name of deputation / individual	Submission / Major views and concerns
		<p>Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), which would allow transfer of suspects to the Mainland for trial, would pose serious threats to the human rights protection of Hong Kong people.</p>
6.	PathFinders Limited	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(06)
7. *	Civic Party	<ul style="list-style-type: none"> ● The HKSAR Government was covering up concerns raised over the human rights situation in Hong Kong by omitting in the HKSAR report the findings of various studies and surveys revealing a decline in Hong Kong's ratings in various areas concerning human rights and the rule of law, and that Hong Kong people's confidence in "one country, two systems" had dropped to a record low in recent years. Such a reporting approach was not only disrespectful to the Working Group's review on HKSAR, but also called into question the commitment of the Government of the People's Republic of China ("PRC") and the HKSAR Government to fulfilling their responsibility of upholding Hong Kong's core values and safeguarding the human rights and fundamental freedoms guaranteed by the Sino-British Joint Declaration and the Basic Law for Hong Kong people. ● Various incidents clearly showed that there were increasing restrictions on the freedom of speech, assembly and association in Hong Kong. They included the invalidation of the nominations of certain individuals seeking candidature in public elections by the Returning Officers, the disqualification of LegCo Members, the imposition of increasingly stringent and unreasonable conditions on public meetings and public processions, the Police's use of inappropriate force to disperse peaceful protesters, and the invocation of the Societies Ordinance (Cap. 151) by the HKSAR Government to prohibit the operation of the Hong Kong National Party. ● The HKSAR Government should (a) stop infringing individuals' freedom of speech and depriving their right to stand for election by means of administrative measures; (b) stop banning political organizations holding dissident views; (c) proactively review the Public Order Ordinance (Cap. 245) to ensure that the restrictions imposed on public meetings and public processions and the penalties for relevant offences provided thereunder were justified, proportionate and compliant with relevant international standards; (d) critically review the Police General Orders and other relevant legislation to enhance the regulation of the use of force by police officers in discharging their duties; and (e) withhold any legislative work for BL 23.

No.	Name of deputation / individual	Submission / Major views and concerns
8.	Miss CHEUNG Sin-ying	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1201/18-19(01) [circulated to members only]
9. *	Hong Kong Unison	<ul style="list-style-type: none"> ● Disagreed with the HKSAR Government's response that CRC was already being implemented in Hong Kong. The Commission on Children set up by the HKSAR Government was not a statutory committee and it did not provide for an effective mechanism to formulate and review laws and policies affecting children. The HKSAR Government should state clearly how it would implement CRC in Hong Kong. ● The Equal Opportunities Commission ("EOC") had not actively followed up the concern repeatedly raised by ethnic minorities that there was no provision in the Race Discrimination Ordinance (Cap. 602), as in the other three anti-discrimination ordinances, to provide that it was unlawful for the Government to discriminate against persons on grounds of their race in the performance of its functions or the exercise of its powers. Given that the United Nations Committee on the Elimination of Racial Discrimination ("CERD") had expressed concern that EOC was not fully independent and accessible to victims, the HKSAR Government should outline clearly when and how it would take forward CERD's recommendation of establishing a national human rights institution in line with the Paris Principles and providing it with sufficient structural independence as well as financial and human resources to ensure its effective functioning.
10.	Miss CHAN Wing-yan	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(07)
11. *	Miss WONG Tsz-yan	<ul style="list-style-type: none"> ● Queried why there was no mention of the measures taken by the HKSAR Government to implement the Convention on the Rights of Persons with Disabilities ("CRPD") in the HKSAR report. ● The current provision of support services for persons with disabilities ("PwDs") in Hong Kong (e.g. residential care homes, barrier-free facilities, sign language service and provision of information in Braille version) was far from adequate and should be enhanced.
12.	Miss Dholeeh Ann HIDALGO	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1253/18-19(02)
13.	Hong Kong Confederation of Trade Unions	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(08)
14. *	Disabilities CV	<ul style="list-style-type: none"> ● It was disappointing that the HKSAR Government had yet to enact legislation to implement CPRD and CRC in Hong Kong.

No.	Name of deputation / individual	Submission / Major views and concerns
		<ul style="list-style-type: none"> ● The various reviews on the existing legislation and policies concerning PwDs were conducted in a fragmented manner. The HKSAR Government should adhere to the principles enshrined in CPRD in formulating appropriate policies and introducing necessary legislation to enhance the services for PwDs, and should provide clear timetables for taking forward the relevant work. ● A recent court case in which the defendant was a person with autism revealed that there was little protection for the fundamental rights of PwDs under the law and the assistance available to them in the course of judicial proceedings was highly inadequate.
15. *	Justice Centre Hong Kong	<ul style="list-style-type: none"> ● Welcomed the HKSAR Government's acceptance of Croatia's recommendation and encouraged the HKSAR Government to work with civil society in implementing the recommendation. ● Expressed concern about the HKSAR Government's decision not to accept the recommendation regarding the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ("ICRMW") put forward by Indonesia ("Indonesia's recommendation") and urged the HKSAR Government to explain the justifications for the decision. ● Expressed support for the proposals of the Hong Kong UPR Coalition as detailed in its submissions [LC Paper Nos. CB(2)1200/18-19(01) and CB(2)1417/18-19(01)].
16. *	The Association for the Advancement of Feminism	<ul style="list-style-type: none"> ● The HKSAR Government should respond to the concerns and recommendations raised by Member States before and during the Working Group's review meeting in a more proactive manner. In doing so, the HKSAR Government should reflect truthfully the human rights situation in Hong Kong. ● Instead of providing only an outline of the topics to be covered in the HKSAR report for public consultation, the HKSAR Government should make available the draft HKSAR report for public comment before submitting it to the Central People's Government for inclusion in the national report to UNHRC.
17.	Hong Kong Women's Coalition on Equal Opportunities	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(10)
18.	Demosisto	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(09)
19.	Miss Shelley LEUNG Wing-hang	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1201/18-19(02) [circulated to members only]

No.	Name of deputation / individual	Submission / Major views and concerns
20. *	Hong Kong Federation Of Asian Domestic Workers Unions	<ul style="list-style-type: none"> ● Expressed concern about the non-acceptance of Indonesia's recommendation by the HKSAR Government. ● The "live-in requirement" applicable to foreign domestic helpers ("FDHs") did not conform with Article 39 of ICRMW, which provided that migrant workers should have the freedom to choose their residence. Such a requirement was discriminatory and rendered FDHs vulnerable to abuse and exploitation by their employers. ● FDHs who had been dismissed unreasonably or unlawfully by their employers were denied access to public medical services even when they were staying in Hong Kong to seek legal redress. This was inconsistent with Article 43 of ICRMW, which provided that migrant workers should enjoy equality of treatment with local residents in various aspects including access to social and health services.
21. *	Mr Harry HO Hei-yin	<ul style="list-style-type: none"> ● Disagreed with the statement made by the Chief Secretary for Administration to UNHRC that "one country, two systems" had been successfully implemented in Hong Kong in strict accordance with the Constitution of PRC and the Basic Law of HKSAR. ● Echoed the previous views and concerns raised by the Civic Party regarding the deteriorating human rights situation in Hong Kong. ● It was totally unacceptable for the HKSAR Government to invoke outdated law to prosecute the leaders of the "Occupy Central" movement.
22.	RainLily	<ul style="list-style-type: none"> ● LC Paper No. CB(2)1179/18-19(11)

* No submissions provided for this meeting