

Legislative Council Panel on Constitutional Affairs

The Chief Executive's 2022 Policy Address

Policy measures of the Constitutional and Mainland Affairs Bureau in relation to electoral arrangements, promotion of the Constitution and the Basic Law, promotion of equal opportunities and elimination of discrimination, etc.

This paper briefs Members on the policy measures of the Constitutional and Mainland Affairs Bureau in relation to improving the electoral system and implementing the principle of “patriots administering Hong Kong”; promotion on the Constitution of the People’s Republic of China (the Constitution) and the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (the Basic Law); and promotion of equal opportunities and elimination of discrimination, etc. A paper on policy measures relating to Mainland co-operation will be separately submitted to the Panel on Commerce and Industry for discussion.

Our vision

2. President Xi Jinping made a keynote address at the meeting celebrating the 25th anniversary of Hong Kong’s return to the Motherland and the inaugural ceremony of the sixth-term Government of the Hong Kong Special Administrative Region (HKSAR) on 1 July this year. President Xi said the HKSAR must fully and faithfully implement the principle of “One Country, Two Systems” and implement “patriots administering Hong Kong”. The fundamental purpose of the “One Country, Two Systems” principle is to safeguard national sovereignty, security and development interests.

3. The report at the 20th National Congress of the Communist Party of China convened this month stated that the principle of “One Country, Two Systems” is a great innovation of socialism with Chinese characteristics and has proven to be the best institutional arrangement for ensuring the long-term prosperity and stability in Hong Kong after the return to the Motherland. The principle of “One Country, Two Systems” must be adhered to over the long term. The report further stated that it is necessary to fully, faithfully and resolutely implement the principle of “One Country, Two Systems”, under which “the people of Hong Kong administer Hong Kong” with a high degree of autonomy, uphold law-based governance in Hong Kong, safeguard the constitutional order of the HKSAR as defined under the Constitution and the Basic Law; uphold and

improve the governance system under “One Country, Two Systems”, ensure that the Central Government exercises overall jurisdiction, implement the principle of “patriots administering Hong Kong”, and implement the HKSAR’s legal system and enforcement mechanisms of safeguarding national security.

4. In this regard, the HKSAR Government will, as in the past, fully and faithfully implement the principle of “One Country, Two Systems” and safeguard the constitutional order of the HKSAR as defined under the Constitution and the Basic Law. We will fully implement the improved electoral system and the principle of “patriots administering Hong Kong”.

5. In respect of constitutional affairs, we will strive to ensure that public elections under the new electoral system will be conducted in a fair, open and honest manner. We will fully implement the principle of “patriots administering Hong Kong” in order to achieve good governance for the public good as well as long-term stability and safety. At the same time, we will strive to actively promote the Constitution and the Basic Law to members of the public, safeguard the fundamental rights protected by the Constitution and the Basic Law, as well as promote equal opportunities and eliminate discrimination.

6. The policy measures we will pursue are highlighted as follows –

- (a) Adhere to the new electoral system in the long run, fully implement the principle of “patriots administering Hong Kong”, continue to enhance and further apply information technology in electoral arrangements, and ensure that elections are fair, open and honest while at the same time more efficient and user-friendly;
- (b) Enhance promotion of the new electoral system, including producing a series of educational videos for broadcast on television channels as well as in schools and district organisations, etc.;
- (c) Work closely with the Electoral Affairs Commission (EAC) to properly conduct the Legislative Council (LegCo) by-election for the vacancies;
- (d) Strengthen promotion and public education on the Constitution and the Basic Law, make more extensive use of online platforms, roll out large-scale promotional

activities, produce television programmes, and enhance promotion targeting specific groups such as students, teachers, youths and civil servants, etc.;

- (e) Rename the “Basic Law Promotion Steering Committee” as the “Constitution and Basic Law Promotion Steering Committee” so as to emphasise the importance the HKSAR Government attaches to the promotion on the Constitution as well as our determination to take forward relevant work;
- (f) Amend the Regional Flag and Regional Emblem Ordinance to further preserve the dignity of the regional flag and regional emblem which are a symbol and sign of the HKSAR;
- (g) Extend the oath-taking requirement to public officers of other sectors;
- (h) Study possible amendments to the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486) to align with international developments in privacy protection, strengthen personal data protection, and address the challenges posed by cyber technologies;
- (i) Continue to work with the Equal Opportunities Commission (EOC) to study how the protection under the anti-discrimination ordinances could be enhanced to tackle discrimination that may be encountered by persons arriving in Hong Kong from the Mainland;
- (j) Support the EOC to enhance publicity and promotion of anti-sexual harassment, to raise public awareness and response capabilities, and to further explore enhancing the relevant legal protection;
- (k) Support the Steering Committee on Ethnic Minority Affairs, chaired by the Chief Secretary for Administration, to strengthen cross-bureau/ inter-departmental collaboration, as well as to co-ordinate and provide steer on support measures for ethnic minorities;
- (l) Continue to co-ordinate and maintain an overview on the overall implementation of the Administrative Guidelines on

Promotion of Racial Equality by government bureaux and departments as well as related public organisations, thereby promoting equal opportunities for people of diverse race; and

- (m) Promote equal opportunities for people of different sexual orientation and transgender persons to foster in the community the culture and values of inclusiveness, mutual respect and non-discrimination.

Detailed measures

The improved electoral system

7. In March last year, the National People's Congress adopted the Decision on Improving the Electoral System of the HKSAR. In the same month, the Standing Committee of the National People's Congress adopted the newly amended Annex I and Annex II to the Basic Law. In May last year, the Improving Electoral System (Consolidated Amendments) Ordinance 2021, which was passed by the LegCo, took effect after gazettal.

8. In accordance with the new electoral system and relevant electoral legislation, the HKSAR Government held the 2021 Election Committee Subsector Ordinary Elections, the 2021 LegCo General Election and the 2022 Chief Executive Election in September 2021, December 2021 and May 2022 respectively.

9. These three important elections were conducted in a fair, just and honest manner, fully demonstrating the broad representativeness, political inclusiveness, balanced participation and fair competition of the new electoral system, which greatly improved and enhanced the democratic system of the HKSAR.

10. President Xi said in his keynote address on 1 July that the modified and improved electoral system of Hong Kong safeguards the implementation of the principle of "patriots administering Hong Kong". The democratic system of the HKSAR conforms to both the "One Country, Two Systems" principle and the constitutional status of Hong Kong, and that it is in the interest of Hong Kong residents' democratic rights and Hong Kong's prosperity and stability. We must therefore treasure and adhere to in the long run.

11. The HKSAR Government will continue allocating resources to publicise and promote the new electoral system through various channels and formats, including production of a series of educational videos through co-operation with Radio Television Hong Kong for broadcast on television channels and social media as well as distribution to schools and district organisations for broadcast, etc.

12. To fill the vacancies in the LegCo Election Committee Constituency, the EAC issued a press statement on 18 October, announcing that the by-election of the Seventh LegCo will be held on 18 December this year. This Bureau will work closely with the EAC, fully support the EAC's preparatory work and provide sufficient resources to ensure that the LegCo by-election will be held in an open, fair and honest manner.

13. Separately, the EAC published the Report on the 2021 LegCo General Election and the Report on the 2022 Chief Executive Election in April and September this year respectively, making recommendations on the relevant electoral arrangements.

14. We will draw on the experience of the three elections and, in the light of the EAC's recommendations and the views of other stakeholders, continue to study with the EAC and the Registration and Electoral Office on enhancing various electoral arrangements, including reviewing the existing legislation and practical arrangements of elections, further introduction of information technology, streamlining the electoral procedures as well as improving efficiency, in order to ensure that the elections are fair, open and honest, while enhancing efficiency and user-friendliness.

Strengthening promotion on the Constitution and the Basic Law

15. The Constitution and the Basic Law together form the constitutional basis and order of the HKSAR, and provide the strongest safeguard for the long-term prosperity and stability of Hong Kong.

16. The HKSAR Government attaches great importance to the promotion and public education on the Constitution, the Basic Law and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law). To enable the public to have a more comprehensive and accurate understanding of the Constitution and the Basic Law, the relationship between "One Country" and "Two Systems" as well as the constitutional order of the HKSAR, we will continue to step up publicity and education

on the Constitution and the Basic Law. Future efforts would focus on three themes, namely (1) The Constitution precedes the Basic Law, and “One Country” precedes “Two Systems”; (2) The high degree of autonomy in the HKSAR comes under the authorisation of the Central Government; and (3) Safeguarding national security is our collective responsibility.

17. The “Basic Law Promotion Steering Committee”, chaired by the Chief Secretary for Administration, is responsible for devising the overall strategy and plan for promoting the Constitution, the Basic Law and the National Security Law as well as monitoring the effectiveness of various projects. The Steering Committee and its five working groups will strengthen promotion in accordance with the above-mentioned three themes through diversified approaches, including making more extensive use of online platforms, rolling out large-scale promotional activities at the community level, producing more easy-to-understand television programmes, and enhancing promotion targeting specific groups such as students, teachers, youths and civil servants, etc.

18. The HKSAR Government has set out indicators for the promotion on the Constitution and the Basic Law, namely organising no less than 700 promotional activities (10% increase over 2022) with no less than 900 000 participants (10% increase over 2022) and no less than 25 million views via online publicity (15% increase over 2022) in 2024.

19. Furthermore, the Steering Committee has been renamed as the “Constitution and Basic Law Promotion Steering Committee” to emphasise the importance the HKSAR Government attaches to the promotion on the Constitution as well as our determination to take forward relevant work.

Regional Flag and Regional Emblem Ordinance

20. The national flag, national emblem and national anthem are a symbol and sign of our country, representing the authority and dignity of our country. In the past two years, the LegCo has passed the National Anthem Ordinance and the National Flag and National Emblem (Amendment) Ordinance so that we can better protect the national flag, national emblem and national anthem.

21. Similarly, the regional flag and regional emblem are a symbol and sign of the HKSAR, and also require appropriate protection and need to be respected by the public.

22. To further preserve the dignity of the regional flag and regional emblem, the HKSAR Government will amend the Regional Flag and Regional Emblem Ordinance to align with the amended National Flag and National Emblem Ordinance and with the National Anthem Ordinance as appropriate. The HKSAR Government plans to introduce an amendment bill on the Regional Flag and Regional Emblem Ordinance to the LegCo within the current legislative session. We will consult the Panel later on the relevant proposed amendments.

Oath-taking by public officers

23. Upholding the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China are necessary requirements and fundamental conditions for public officers.

24. The HKSAR Government has amended the relevant ordinances in May last year to further improve the oath-taking arrangements as required by the Basic Law, set out the legal consequences a public officer has to face if he or she engages in conduct in breach of the oath after taking the oath and assuming the office, and provide for oath-taking requirements for members of the Election Committee and the District Council.

25. At present, the Chief Executive, Principal Officials, Members of the Executive Council and of the LegCo, judges of the courts at all levels and other members of the judiciary, members of the Election Committee and of the District Council, as well as civil servants have already taken oath or submitted written oath. In respect of the oath-taking arrangements of other public officers, the HKSAR Government is actively formulating a proposal and will submit it to the LegCo for scrutiny once the proposal has been worked out later.

Protection of personal data

26. To combat doxxing acts which intrude into personal data privacy, this Bureau proposed amending the PDPO last year. The proposal included criminalising doxxing acts, empowering the Privacy Commissioner for Personal Data (Privacy Commissioner) to carry out criminal investigations and institute prosecutions for doxxing and related offences, as well as conferring on the Privacy Commissioner statutory powers to issue a cessation notice. The amendment bill was passed by the LegCo and took effect in October last year following gazettal.

27. Upon enactment of the amendment ordinance, in order to combat doxxing offences, the Office of the Privacy Commissioner for Personal Data (PCPD) has strengthened internal training and invited members of the Hong Kong Police Force and the Department of Justice to provide relevant training for its staff. The PCPD has also employed lawyers with relevant criminal prosecution experience and former law enforcers from the disciplined services to conduct criminal investigation and prosecution work. The PCPD will continue to combat doxxing acts through various means in accordance with the investigation and enforcement powers provided under the amendment ordinance.

28. Furthermore, the rapid development of information technology and internet technology has brought about certain new challenges to personal data privacy protection. The HKSAR Government is studying further amendments to the PDPO to align with the latest international developments in privacy protection, strengthen personal data protection, and address the challenges posed by the Internet and technology development, etc. At present, amendment directions include: establishing a mandatory data breach notification mechanism, requiring data users to devise a data retention period policy, empowering the Privacy Commissioner to hand down administrative fines, and directly regulating data processors, etc. Upon reference to the relevant privacy laws in other legal jurisdictions and the actual situation of Hong Kong, we together with the PCPD will formulate concrete legislative amendment proposal and introduce it to the LegCo for scrutiny.

Review of anti-discrimination legislation

29. The HKSAR Government has all along been committed to building a harmonious, inclusive and caring society. The Government reviews the protection by and implementation of the current four anti-discrimination ordinances (i.e. Sex Discrimination Ordinance (Cap. 480), Disability Discrimination Ordinance (Cap. 487), Family Status Discrimination Ordinance (Cap. 527) and Race Discrimination Ordinance (Cap. 602)) from time to time with a view to ensuring that they meet social needs, and will introduce legislative amendment proposals when necessary in the light of the circumstances. In the past two years, the LegCo has also passed two relevant amendment ordinances to enhance protection from discrimination and harassment.

30. We are now working with the EOC to study in detail enhancing protection from discrimination or vilification that may be encountered by

persons arriving in Hong Kong from the Mainland. We will consult Members on the proposal at an appropriate time.

31. Alongside our efforts to enhance legal protection, we will continue to support the EOC's efforts in publicising and promoting elimination of discrimination. With additional resources allocated by the HKSAR Government, the EOC has established a designated Anti-Sexual Harassment Unit to enhance public education and publicity so as to raise public awareness of sexual harassment and their ability to respond to such incidents.

Promotion of racial equality

32. The HKSAR Government strives to eliminate racial discrimination and promote equal opportunities for people of different races. The Steering Committee on Ethnic Minority Affairs, chaired by the Chief Secretary for Administration, continues to lead and co-ordinate cross-bureau/ inter-departmental efforts on support for ethnic minorities with the objective of facilitating equal access to public services by ethnic minorities so that they can actively integrate into the community. Starting from 1 July this year, this Bureau provides secretarial support to the Steering Committee.

33. In addition, we will continue to co-ordinate and maintain an overview on the overall implementation of the Administrative Guidelines on Promotion of Racial Equality (the Guidelines). We have improved the Guidelines in April 2020 and extended the application to all government bureaux, departments and related organisations (collectively referred to as public authorities), making a total of over 110.

34. The Guidelines not only raise public authorities' awareness of racial diversity and inclusion, but also facilitate residents, regardless of their race, to enjoy equal access to public services. Each public authority will, taking into account its own operational circumstances, formulate support measures within its respective policy and programme areas to provide appropriate services to people of diverse race. We will closely monitor the implementation of the Guidelines to ensure that the expected effect would be achieved.

Eliminating discrimination on grounds of sexual orientation and gender identity

35. The HKSAR Government has all along been striving to promote

equal opportunities for people of different sexual orientation and transgender persons to foster in the community the culture and values of inclusiveness, mutual respect and non-discrimination.

36. On public education and publicity, we will continue with our relevant efforts via various channels including online platforms. We have also introduced to employers the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation (the Code). As of now, over 380 organisations employing nearly 570 000 employees have adopted the Code.

37. On support services provided to sexual minorities, we will continue to subsidise the 24-hour hotline for supporting sexual minorities (i.e. Pride Line), which is operated by the Tung Wah Group of Hospitals (TWGHs), to provide prompt support, counselling and referral services to sexual minorities and their families. Since its establishment in January 2018, the hotline has received over 14 000 calls as at September this year. The TWGHs will also regularly organise different support group programmes, including emotional management and peer sharing, for sexual minorities. Moreover, we will increase our subvention to the TWGHs for Pride Line to further provide face-to-face counselling service to sexual minorities and their families in need, in addition to the hotline.

38. To enhance their knowledge of and sensitivity towards sexual minorities in their daily work, we have launched professional training materials for frontline personnel of the medical and healthcare profession as well as disciplined services, etc. We have also held briefing sessions to illustrate the content of the training materials. We are currently formulating training materials for frontline personnel of other sectors, such as social workers, with a view to enhancing their knowledge of and sensitivity towards sexual minorities.

Conclusion

39. We will continue to implement the above-mentioned various policy measures. Members are invited to note the content of this paper.