

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1959/02-03  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/HA

**Panel on Home Affairs**

**Minutes of meeting**  
**held on Friday, 11 April 2003 at 10:45 am**  
**in the Chamber of the Legislative Council Building**

- Members Present** : Hon Andrew CHENG Kar-foo (Chairman)  
Hon IP Kwok-him, JP (Deputy Chairman)  
Dr Hon David CHU Yu-lin, JP  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Hon NG Leung-sing, JP  
Hon Andrew WONG Wang-fat, JP  
Hon WONG Yung-kan  
Hon LAU Wong-fat, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk  
Hon Henry WU King-cheong, BBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Michael MAK Kwok-fung  
Hon Albert CHAN Wai-yip  
Hon WONG Sing-chi  
Hon MA Fung-kwok, JP
- Member Attending** : Hon Eric LI Ka-cheung, JP
- Members Absent** : Hon James TO Kun-sun  
Hon Timothy FOK Tsun-ting, SBS, JP  
Dr Hon TANG Siu-tong, JP  
Dr Hon LO Wing-lok

**Public Officers** : Item IV  
**Attending**

Dr Patrick HO, JP  
Secretary for Home Affairs

Ms Lolly CHIU, JP  
Deputy Secretary for Home Affairs (3)

Ms Miranda YEAP  
Assistant Secretary for Home Affairs (Recreation and  
Sport)

Mr Johnny WOO, JP  
Acting Deputy Director of Leisure and Cultural Services  
(Leisure Services)

Mr Daniel MAK  
Chief Executive Officer (Planning) 2  
Leisure and Cultural Services Department

Item V

Mr Stephen FISHER, JP  
Deputy Secretary for Home Affairs (2)

Mr Stephen WONG  
Deputy Solicitor General (General)  
Department of Justice

Mr John DEAN  
Principal Assistant Secretary for Home Affairs (7)

Mr Johann WONG  
Principal Assistant Secretary for Security (F)

Miss Winnie WONG  
Acting Principal Assistant Secretary for Security (C)

**Attendance by** : Item V  
**Invitation**

Equal Opportunities Commission

Ms Anna WU Hung-yuk, SBS, JP  
Chairperson

Miss LAM Siu-wai  
Senior Equal Opportunities Officer

Hong Kong Bar Association

Mr Andrew LI  
Bar Council Member

Mr Donald LAU  
Bar Council Member

Hong Kong Confederation of Trade Unions

Mr WONG Yu-loy  
Organizing Secretary

Hong Kong Human Rights Commission

Mr TSOI Yiu-cheong  
Member

Hong Kong Human Rights Monitor

Mr Paul HARRIS  
Member

The Frontier

Ms LUI Pui-yee  
Executive Committee Member

**Clerk in Attendance** : Miss Flora TAI  
Chief Assistant Secretary (2)2

**Staff in Attendance** : Miss Lolita SHEK  
Senior Assistant Secretary (2)7

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- I. Confirmation of minutes**  
[LC Paper No. CB(2)1686/02-03 and CB(2)1676/02-03]

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The minutes of the meetings held on 7 February and 14 March 2003 were confirmed.

**II. Information paper issued since the last meeting**

2. Members noted the following papers issued since the last meeting –

- (a) LC Paper No. CB(2)1498/02-03(01) -- key findings provided by the Equal Opportunities Commission (EOC) on its telephone survey on women's knowledge of the Convention on the Elimination of All Forms of Discrimination Against Women;
- (b) LC Paper No. CB(2)1636/02-03(01) -- paper on "United Nations targets for proportion of women in leadership and decision-making positions" provided by EOC; and
- (c) LC Paper No. CB(2)1713/02-03(01) -- consultation paper on "Review of the role and functions of public sector advisory and statutory bodies" provided by the Administration.

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

[Appendix I to LC Paper No. CB(2)1680/02-03]

3. Members agreed to discuss the following items at the next regular meeting scheduled for Friday, 9 May 2003 at 10:45 am -

- (a) the support of the Home Affairs Department (HAD) in resolving disputes arising from the formation of owners' corporations; and
- (b) monitoring mechanism for the implementation of international human rights treaties in the Hong Kong Special Administrative Region (HKSAR).

4. On paragraph 3(b) above, members also agreed that deputations should be invited to express their views at the meeting.

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**IV. Priority of the provision of sports, recreational and cultural facilities under current budgetary constraints**

[LC Paper Nos. CB(2)1680/02-03(01) and CB(2)1755/02-03(01)]

5. At the invitation of the Chairman, Secretary for Home Affairs (SHA) highlighted the salient points of the paper provided by the Administration which set out the 26 sports, recreational and cultural facilities projects to be implemented in the financial year 2003-04, the criteria based on which the priority list of projects was compiled, details of the Private Sector Involvement (PSI) scheme in implementing some of these projects, and the progress of the West Kowloon Cultural District.

Provision of public sports, recreational and cultural facilities by the Government

6. Ms Cyd HO said that she was very disappointed that the Administration had taken more than 40 months after the abolition of the two former Municipal Councils (MCs) to provide to the Panel information on the new leisure and cultural services (LCS) facilities projects to be implemented by the Government. However, many of the works projects that had been shelved after the abolition of the MCs were not mentioned in the paper provided by the Administration. She pointed out that unlike the MCs which had been allocated a portion of the rates collected as their funding for capital works, the Home Affairs Bureau (HAB) might not be able to secure sufficient funds for the development of public LCS facilities, particularly under the current stringent financial situation. She expressed concern that such being the case, the Government would no longer provide these public facilities to the communities. Citing the provision of public libraries and swimming pools as an example, Ms HO pointed out that many new towns had not yet been provided with these facilities even though the size of their population had reached or exceeded that set out in the Hong Kong Planning Standards and Guidelines (HKPSG) for the provision of such facilities. She sought clarification whether the Government would still provide public facilities according to these guidelines.

7. To address the concern of Ms Cyd HO, SHA clarified that the Government had been examining the possibility of involving the private sector in the development of some public facilities in order to speed up the delivery of these projects, and in line with the policy of "big market and small government". He assured members that the Government would continue to provide LCS facilities to the public with reference to the criteria/recommended provision set out in HKPSG, as well as other factors such as the popularity of the sports, rate of utilization of existing facilities etc.

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PSI scheme

8. Ms Cyd HO noted from paragraph 6 of the paper provided by the Administration that under the Private Sector Finance (PSF) approach in the PSI scheme, a private developer would fund the development and management of a public facility and that the Government would allow commercial development in these projects in order to make them commercially viable. She sought for additional details on the PSI scheme in particular the funding arrangements. Ms HO also expressed concern that in order to derive profits, private developers might introduce new fees or raise the charges for these public facilities substantially. The operating cost of the facilities might then be shifted to members of public under the PSF approach.

9. Sharing a similar concern, Mr Albert CHAN said that he was not optimistic about PSI in the development of public facilities. He opined that commercial influence would affect cultural development in Hong Kong adversely. He said that he did not object to the development of territorial cultural facilities by the PSF approach. However, if district facilities were to be developed and operated under commercial principles, he considered that public interest would likely be compromised by the need for profit making. It would no longer be possible for community organizations or arts groups to enjoy special rates for renting these facilities and the development of minority culture would seriously be affected. To ensure that the public facilities would be operated in the public interest and to safeguard the proper development of culture in Hong Kong, Mr CHAN was of the view that district cultural facilities should be provided by the Government.

10. Mr Albert CHAN added that he was not aware of any successful examples of public facilities developed by the PSF approach except Yan Oi Tong Community and Indoor Sports Centre in Tuen Mun which was developed by private individuals in the community. However, he pointed out that the centre might be different from the public facilities to be developed under the PSF approach proposed by HAB since the former was a facility that provided social services financed by the Government. He sought for more information on the proposed PSF approach.

11. Referring to the different approaches proposed under the PSI scheme in paragraph 6 of the paper provided by the Administration, Mr IP Kwok-him pointed out that the Design-Build approach and Design-Build-Operate approach were aimed at speeding up the development of LCS projects. However, PSF was a completely different approach under which commercial development would be allowed. He requested for more information on the proposed arrangements.

12. In response to the concerns raised by members about the PSF approach, SHA reiterated that the main purpose for involving the private sector in the

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development of public facilities was to speed up the delivery of these projects. In addition, savings might be achieved through the implementation of this scheme and could be deployed to finance additional LCS facilities. He informed members that the public facilities would be developed in "Government, Institution or Community" ("G/IC") zones in accordance with HKSPG. Under section 16 of the Town Planning Ordinance (Cap. 131), the Town Planning Board might approve commercial facilities in "G/IC" zones. HKSPG had set out the proportion of commercial facilities to public facilities to ensure that the former would not be greater than the latter.

13. SHA stressed that although these LCS facilities might be privately built and managed, they would remain to be open to the public. The Government would monitor the quality of services provided as well as ensure that the charges for these facilities would be affordable to members of the public.

14. Mr Albert CHAN, however, remained of the view that there would bound to be conflicts of interest between private developers and the public at large. He said that unless the Administration could cite examples to illustrate that public interests and the development of minority culture could be protected in PSF projects, he would not be convinced of the suitability of adopting this approach in the development of LCS facilities.

15. Echoing the views of Mr Albert CHAN, Ms Emily LAU suggested that the private funding initiative (PFI) approach might be more suitable for the development of public facilities which might not be attractive to private developers in terms of their commercial value. She explained that under the PFI approach, a private developer would pay for the development of a public facility and the Government would rent the facility from the developer. She informed members that successful examples of public facilities developed under this approach could be found in the United Kingdom (UK). She therefore considered PFI more feasible than PSF and suggested the Administration to consider adopting this approach.

16. In response, SHA explained that LCS facilities might also be developed in the form of PFI under the PSF approach. He informed members that the Government would identify the best approaches in developing LCS projects in the light of the response from the private developers to the PSI scheme and other related factors. Acting Deputy Director of Leisure and Cultural Services (Leisure Services) (DD of LCS(LS)(Atg)) clarified that the level of private involvement in LCS projects differed under the different approaches in the PSI scheme. The response from the private developers to the eleven projects selected for the PSI scheme would indicate to the Government their preferred level of involvement in different types of projects. DD of LCS(LS)(Atg) supplemented that provisions had been made in 2003-04 for nine of these 11 projects. These nine projects would be developed by Government funds should the private sector indicate no interest in financing any of them. In case private

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developers were willing to pay for the development of these projects, the savings achieved would be deployed to finance additional LCS projects.

17. DD of LCS(LS)(Atg) informed members that successful examples of PSF projects could be found in UK. However, he stressed that the situations in Hong Kong were different from those in UK. He explained that the PSF approach would allow flexibility for private developers to include in LCS projects commercial development which might generate profits to cover the development and operating costs of the public facilities. The projects would then be able to attract the involvement of private developers. At the same time, the quality of and charges for LCS facilities would continue to be monitored by the Government to ensure that the interest of public users would be protected. In response to a further question from Ms Emily LAU, DD of LCS(LS)(Atg) confirmed that other relevant Bureaux such as the Environment, Transport and Works Bureau were also involved in the development of LCS projects.

18. Both Mr WONG Yung-kan and Mr MA Fung-kwok said that they were supportive of the proposed PSI scheme. Mr MA Fung-kwok enquired about the criteria for the award of tenders to private developers. DD of LCS(LS)(Atg) replied that the criteria set out in HKSPG, provision of all the LCS facilities required by the Government in the project, compatibility of the commercial development with the public facilities, and the payment to be made to the Government by the private developers would all be taken into consideration in the award of tenders.

Provision of a new civic centre (CC) in Tai Po (TP)

19. Mr WONG Sing-chi informed members that a case conference was held between LegCo Members and the Administration on 10 April 2003 to discuss the request from Tai Po District Council (TPDC) for the provision of a new CC and a central library in TP. He said that TPDC had expressed concern that despite the great demand for a new CC from the residents in TP, their needs were only rated as average in the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong commissioned by HAB. Mr WONG urged the Administration to consider the recommendation of the LegCo Members attended the case conference that the new CC and central library be included as an additional project in the pilot scheme for the PSF approach. He pointed out that such arrangement would help expedite the provision of the facilities in TP but at the same time would not involve additional Government funding.

20. Echoing the views of Mr WONG Sing-chi, Mr WONG Yung-kan added that a site had already been reserved for the proposed new CC in TP for more than ten years. He therefore supported the recommendation that the project be included in the pilot PSF scheme.



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21. Mr WONG Yung-kan, Ms Emily LAU and Mr IP Kwok-him informed members of the concern of TPDC that if a temporary hall was to be constructed for TP Government Secondary School so as to release TPCC for public users, a new CC would no longer be provided for the district in future. They requested clarification from the Administration on the arrangement. Mr IP Kwok-him opined that while a temporary hall should be provided to TP Government Secondary School in order to provide a short term solution to the problem, a new CC should be developed for the district to satisfy their demand for LCS facilities in the long run.

22. In reply, SHA explained that the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong had focused on identifying the community needs for cultural and performance facilities and the types of facilities that were required to meet such needs at the regional/district level. The study had not recommended high priority to the provision of new LCS facilities to TP because it considered that the Sha Tin Town Hall could serve as a cross district facility to cater for the needs of TP in this respect. However, he assured members that the Administration was aware of the earnest request from the residents of TP and that a site had been reserved for the new CC. Therefore, it had not decided against the provision of the new CC to TP. He advised that the Administration would consider both the improvement of existing facilities at the TPCC as well as the construction of the new CC in TP.

23. SHA added that the Administration had to assess the suitability of a LCS project for the PSF approach before including it in the scheme. He clarified that private developers would take into consideration the location, popularity of the specified LCS facilities among the local community, and other related factors in deciding whether the projects were commercially viable for them to participate. The Administration would review the response from the private developers to the two pilot projects for the PSF approach before considering including additional projects in the scheme.

24. Mr WONG Sing-chi, however, maintained the view that the new TPCC should be included in the PSF pilot scheme so that private developers might be given the opportunity to develop the project if they were interested. Ms Emily LAU opined that the commercial value of the new TPCC might not be great enough to attract the involvement of private developers. She therefore urged the Administration to consider developing the project under the PFI approach. Ms LAU pointed out that if a new CC could be provided to the district within a short period of time under this approach, savings might be achieved as it might no longer be necessary to build the temporary hall for TP Government Secondary School.

25. SHA assured members that it might not be necessary to wait till the completion of the two pilot projects before the Government would review the

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scheme and consider inviting private involvement in the development of more LCS projects. He reiterated that the Government would need to assess the TPCC project thoroughly before deciding on its suitability for the PSF approach. SHA admitted that TPCC might not be as attractive to the private sector as the two pilot PSF projects. Therefore, a study would need to be conducted on whether some public facilities could be deleted from while other commercial opportunities might be added onto the project. He said that the assessment could be made in parallel with the consideration for the proposed improvement to TP Government Secondary School.

26. DD of LCS(LS)(Atg) added that the Government would soon invite the private sector to submit Expression of Interest on the two PSF pilot projects as well as other PSI projects. It was expected that the private sector would submit Express of Interest very quickly. In the light of the market response, the Government would then consider whether other projects including TPCC would be developed under the PSI scheme.

27. The Chairman remarked that the residents of TP had requested for a new CC for more than ten years. He informed members that through the efforts of TPDC, the Hong Kong Jockey Club (HKJC) had once indicated that it was willing to provide financial support to the development of the new TPCC. He requested the Administration to liaise with HKJC to see whether it would still be willing to finance the project. SHA undertook to follow-up with HKJC.

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Way forward

28. Ms Cyd HO suggested that the Panel should continue with the discussion of the provision of LCS facilities when the results of the Consultancy Study on the Provision of Regional/District Cultural and Performance Facilities in Hong Kong were available. Ms Emily LAU suggested that the Panel should revisit the issue at its meeting in June 2003. The Chairman said that the issue would be put on the list of outstanding items for discussion and requested that the Administration should respond in greater detail to the issues and concerns raised by members including PS1, ratio between population size and provision of public facilities, criteria for the award of tenders and provision of a new CC in TP in a paper for future discussion.

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**V. Second report to be prepared by HKSAR under the International Covenant on Civil and Political Rights (ICCPR)**

[LC Paper Nos. CB(2)1219/02-03(01), CB(2)1680/02-03(02) to (03), CB(2)1748/02-03(01) and CB(2)1775/02-03(01) to (02)]

Meeting with deputations

29. The Chairman welcomed representatives of deputations and the Administration to the meeting. At the invitation of the Chairman, six deputations presented their views on the second report to be prepared by HKSAR under ICCPR as summarized in paragraphs 30 to 36 below.

*EOC*

[LC Paper No. CB(2)1748/02-03(01)]

30. Ms Anna WU, Chairperson of EOC, highlighted the salient points in the submission of the Commission as follows –

- (a) HAB should release the draft report to be prepared under ICCPR for public consultation before it was finalized;
- (b) Government should report its progress in the implementation of ICCPR to LegCo, non-government organizations (NGOs) and the public, and encourage NGOs' participation in the monitoring and implementation of the Covenant;
- (c) Government should lay down a clear time frame for the enactment of legislation against racial discrimination;
- (d) Government should extend protection against sexually hostile learning environment and initiate legislative amendments as soon as possible;
- (e) EOC supported the establishment of a mental health council to coordinate policy formulation, programme delivery, research and public education in the area of mental health, and to safeguard the rights of persons with mental illness;
- (f) Government should set an example by developing family friendly policies within the civil service and actively encourage private sector employers to do the same; and
- (g) Government should set targets for public bodies to achieve specific levels of representation as milestones towards achieving fair representation of different groups at decision-making and policy-formulation level of these bodies.

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31. Referring to the recent outbreak of Severe Acute Respiratory Syndrome (SARS), Ms Anna WU said that employers should be sympathetic towards employees suffering from or related to people suffering from SARS. EOC also hoped that the personal data of SARS patients would not be disclosed.

*Hong Kong Bar Association*

[LC Paper No. CB(2)1775/02-03(01)]

32. Mr Andrew LI, Bar Council Member of the Hong Kong Bar Association introduced the submission of the Association as follows –

- (a) Government should implement the recommendations of the United Nations Human Rights Committee (UN Committee) without further delay;
- (b) it was not necessary for the Government to enact laws under Article 23 of the Basic Law (BL) in order to protect national security. A White Bill should be published instead of a Blue Bill and the public consultation period on the latter should be longer than three months. The Bar was extremely concerned that with the passing of the National Security (Legislative Provisions) Bill, freedom of expression, association, thought, the press and holding opinions without interference would all be compromised;
- (c) Government should establish a human rights commission to monitor the implementation of ICCPR in Hong Kong;
- (d) the Bar was concerned about the Government's recent decision to renew the contract of the Chairperson of EOC for one year only and its failure to dispel rumours that the latter's rank would be downgraded;
- (e) Government had not been committed in implementing electoral reforms for achieving greater progress in democratization; and
- (f) legislation against racial discrimination should be implemented without further delay.

*Hong Kong Confederation of Trade Unions*

[LC Paper No. CB(2)1680/02-03(03) ]

33. Mr WONG Yu-loi, Organizing Secretary of the Hong Kong Confederation of Trade Unions, informed members of the views of the Confederation included in its submission as follows –

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- (a) Government should review and amend relevant laws of Hong Kong to safeguard the right of peaceful assembly and freedom of association;
- (b) Government should enact legislation against any forms of discrimination;
- (c) Government should formulate and implement long term policy to protect the rights of women;
- (d) Government should conduct public consultation on constitutional reforms immediately and implement democratic elections as soon as possible;
- (e) the Confederation was opposed to legislation under BL 23. To safeguard human rights and freedom, the Government should stop the related legislation work;
- (f) HKSAR should establish a human rights commission immediately; and
- (g) the broad outline of the second report to be prepared released by the Government for public consultation did not contain sufficient information for the public to comment on the draft report.

*Hong Kong Human Rights Commission*

[LC Paper No. CB(2)1680/02-03(02)]

34. Mr TSOI Yiu-cheong, Member of Hong Kong Human Rights Commission, summarized the submission of the Commission as follows –

- (a) LegCo should request the Government to release the draft report to be submitted to UN under ICCPR for public consultation so as to ensure that the latter had addressed the issues raised by the UN Committee at its concluding observations on HKSAR's first report;
- (b) Government should establish a human rights commission. Deputy Secretary for Home Affairs (2) (DS(HA)2) had promised to consider the issue and should inform LegCo and NGOs of the plan in this respect;
- (c) legislation under BL 23 would adversely affect human rights in HKSAR; and

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- (d) HAB had not been effective in monitoring the implementation of ICCPR in Hong Kong as it was not able to offer expert advice on whether the National Security (Legislative Provisions) Bill had violated human rights in HKSAR.

*Hong Kong Human Rights Monitor*

35. Mr Paul HARRIS, Member of Hong Kong Human Rights Monitor, presented the views of the organization as follows –

- (a) Government should address the concerns and comments of NGOs in the second report to be prepared;
- (b) the detailed plan for the implementation of constitutional reforms should be provided in the report to be prepared;
- (c) a review of the accountability system for principal officials should be provided in the report;
- (d) Government should legislate against racial discrimination without further delay;
- (e) Government should not exert undue influence on statutory organizations such as EOC, which were responsible for safeguarding human rights in HKSAR. It should also clarify the rumour about the downgrading of EOC; and
- (f) the proposed legislation under BL 23 was totally unnecessary. Government should clarify the purpose for introducing the National Security (Legislative Provisions) Bill.

*The Frontier*

[LC Paper No. CB(2)1775/02-03(02)]

36. Ms LUI Pui-ye, Executive Committee Member of the Frontier, summarized the views of the organization in its submission as follows –

- (a) Government should address the issues raised by the UN Committee in the latter's concluding observations on the first report of the HKSAR under ICCPR, implement its recommendations, and report the progress of the implementation in the second report to be prepared;
- (b) Government should withdraw the National Security (Legislative Provisions) Bill as it would infringe human rights in Hong Kong;

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- (c) Government should conduct public consultation on the constitutional reforms to be introduced by 2007 immediately;
- (d) Government should encourage the participation of women at decision-making and policy-formulation level of public bodies by appointing a higher percentage of female members to these bodies;
- (e) Government should legislate against racial discrimination without further delay; and
- (f) Government should establish the human rights commission immediately.

Meeting with the Administration

37. At the invitation of the Chairman, DS(HA)2 responded to the concerns of some of the deputations about the monitoring of the implementation of ICCPR in Hong Kong by HAB. He explained that Department of Justice (DoJ) was responsible for providing legal advice to the HKSAR Government. Before any Bill could be gazetted and tabled at LegCo, a confirmation from DoJ on the conformity of the Bill with existing human rights legislation and treaties was required. Since such a confirmation had already been obtained from DoJ regarding the National Security (Legislative Provisions) Bill, members could be assured that the Bill did not violate any human rights legislation or treaties.

38. Mr TSOI Yiu-cheong, however, queried that being part of the HKSAR Government, both HAB and DoJ could not serve as watchdogs of the Government. He maintained the view that an independent human rights commission should be set up to monitor and assess Government policies and programmes in the light of the provisions of related legislation and international human rights treaties.

*Progress and development of democracy*

39. Ms Emily LAU considered that Government should explain in the second report to be prepared why constitutional reforms that should be implemented by 2007 had not yet been initiated. She also expressed concern about the recent remark of Secretary for Constitutional Affairs (SCA) that the Administration had to examine the interpretation of paragraph 7 of Annex I to BL to see whether the method for selecting the Chief Executive (CE) could be amended by or after 2007. Ms LAU asked whether the interpretation of Annex I would affect that of BL 158 and urged the Administration to clarify the issue as soon as possible so that constitutional reforms would not be further delayed. She also queried why representatives from the Constitutional Affairs Bureau (CAB) were not present at the Panel meeting to respond to the questions raised by members and deputations on this issue.

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40. Sharing a similar concern, Mr TSOI Yiu-cheong opined that the election of CE should be covered by the constitutional reforms which should be introduced by, instead of after, 2007 in accordance with Annex I to BL.

41. The Chairman informed members that HAB was responsible for coordinating the attendance of the Administration. DS(HA)2 explained that as most of the submissions received on the second report to be prepared had raised the issue of legislation under BL 23 rather than that of constitutional reforms, representatives from CAB had not been invited to attend the meeting.

42. In response to the concern of Ms Emily LAU, both DS(HA)2 and Deputy Solicitor General (General) assured members that as promised by SCA, the Administration would conduct a review and clarify the issue. DS(HA)2 undertook to liaise with CAB and provide a response to the Panel in due course.

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43. Ms Emily LAU reiterated that representatives from CAB should attend the Panel meeting to facilitate discussion of the report to be prepared under ICCPR. She requested HAB to relate the concerns and views of members and deputations to CAB after the meeting. She also considered that the issue on the interpretation of paragraph 7 of Annex I to BL should also be included in the report to be prepared under ICCPR. She opined that the Government should conduct public consultation if the review concluded that constitutional reforms could only be introduced after 2007. The Chairman supported the suggestion of Ms LAU.

44. Ms Cyd HO opined that the UN Committee had urged HKSAR to take all necessary measures to maintain and strengthen democratic representation of its residents in public affairs. However, instead of heeding this advice, the HKSAR Government had abolished the former MCs and proposed to legislate for the implementation of BL23. She considered this a retrogression in democratic developments in Hong Kong and should be explained in the second report to be prepared.

45. In reply, DS(HA)2 denied that there was a retrogression in the democratic developments in Hong Kong. Principal Assistant Secretary for Security (F) supplemented that the Government had proposed to legislate under BL23 and introduced the National Security (Legislative Provisions) Bill in order to safeguard national safety. He assured members that human rights in HKSAR would not be affected by the Bill since it was specifically provided that the interpretation, application and enforcement of the provisions of the Bill must comply with the various international human rights treaties. He said that the Government would explain the issue further in its report to be prepared under ICCPR.



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46. The Chairman informed the deputations that the Bills Committee on National Security (Legislative Provisions) Bill would conduct meetings in April 2003 to receive views from deputations on the Bill. He invited deputations to register with the LegCo Secretariat for attending the meetings to express their views.

*Equal rights of men and women*

47. Ms Cyd HO opined that the Government should explain the impact of its Budget on the promotion of equal rights of men and women in Hong Kong in the report to be prepared. She considered that the effect of Government expenditure in different programmes on the equality between the two sexes should be included in the report.

*Legal status of the concluding observations of the UN Committee*

48. Ms Cyd HO expressed concern that the DoJ had said that ICCPR and the concluding observations of the UN Committee were not legally binding. She queried if the HKSAR Government was not legally required to implement ICCPR and the recommendations in the concluding observations of the Committee, it would be meaningless to discuss the progress of its work in this respect. DS(HA)2 assured members that HKSAR Government would respond to the concerns of the Committee in its concluding observations in 1999 in the second report to be prepared.

*Public consultation*

49. Mr Albert HO said that he supported EOC's suggestion that the Government should release the draft report for a second round of public consultation before submitting it to UN. DS(HA)2 responded that the Government had conducted public consultation on the outline of the report to be prepared and would forward all submissions received to UN directly. It therefore would not conduct a second round of public consultation on the draft report. He added that the Government was not required to do so according to the requirements prescribed by the Human Rights Committee in the UN Manual on Human Rights Reporting.

50. However, both Mr Albert HO and Ms Anna WU pointed out that it would not contravene the requirements of the UN if the HKSAR Government consulted the public on the draft report. Ms WU informed members that this had been done by other state parties to international human rights treaties. Miss LAM Siu-wai, Senior Equal Opportunities Officer of EOC, quoted as an example Norway which had been praised by UN for conducting public consultation on the final draft of its report to be submitted to UN under the International Convention on the Elimination All Forms of Racial Discrimination. She added that some other state parties also followed the good

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practice of Norway and released the final draft of their reports for public consultation before submitting them to UN. Mr TSOI Chi-cheong supported the views of Mr Albert HO and Ms Anna WU and urged the Government to release the draft report for public consultation.

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51. The Chairman informed the deputations that the monitoring mechanism for the implementation of international human rights treaties in HKSAR would be discussed at the next meeting of the Panel on 9 May 2003. He suggested that this issue could further be discussed at the meeting. He also requested HAB to liaise with other Bureaux concerned and respond to this request from members and deputations at that meeting.

*Monitoring of the implementation of ICCPR*

52. Ms Emily LAU invited deputations to attend the Panel meeting on 9 May 2003 to express their views on the monitoring mechanism for the implementation of international human rights treaties in HKSAR. She requested the Administration to respond to the request for the establishment of an independent human rights commission. Ms LAU also invited suggestions from deputations on other effective methods to monitor the implementation of ICCPR.

53. DS(HA)2 assured members that he would review past discussions on the suggestion for the establishment of the human rights commission in Hong Kong and consider the issue in the light of the availability of resources, structure of the public administration system, as well as the suitability for setting up such an institution at this stage.

54. Mr TSOI Yiu-cheong reiterated the importance of an independent statutory human rights commission in monitoring Government policies and programmes in implementing human rights treaties in Hong Kong. He added that other statutory organizations such as EOC and Office of the Privacy Commissioner for Personal Data had also played an important role in safeguarding human rights in Hong Kong. However, he pointed out that with the increasing undue influence from the Government, these organizations had encountered more and more difficulties recently in exercising their power in monitoring the work of the Government.

55. Referring to the concluding observations of the UN Committee in 1999 in which the Committee had criticized the HKSAR Government as having violated some of the provisions of the Covenant, Mr Albert HO pointed out that the strongly worded comments from the Committee had reflected its disappointment towards HKSAR's failure in implementing ICCPR. He said that both members and deputations were equally disappointed that despite the repeated requests from the Committee, LegCo Members and deputations, HKSAR Government had still refused to implement the recommendations of

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the Committee. He added that HAB, being of the same status as other Bureaux, would not be in a position to monitor the work of the latter in the implementation of ICCPR effectively. He therefore suggested that the Chief Secretary for Administration should be charged with this responsibility.

56. As regards the establishment of a human rights commission, Mr Albert HO asked whether it would be more effective if EOC, which had all along contributed significantly towards the safeguard of human rights in Hong Kong, should be accorded with this responsibility by widening its scope of work and statutory power. In response, Ms Anna WU advised that the monitoring mechanism suggested by Mr Albert HO had been practised in some other jurisdictions. She advised that there might be other alternatives as well. The monitoring work might be shared by two separate organizations, the responsibilities of which might be delineated by treaties. She added that there were several statutory organizations related to human rights in Hong Kong. However, only EOC had the power to grant various forms of legal assistance to people who wished to take legal proceedings with regard to complaints against unlawfully acts under Hong Kong's anti-discrimination legislation. The Government might review all these organizations in the light of their responsibilities, power and structure, and restructure the organizations, if necessary, to establish an effective mechanism in monitoring the implementation of human rights treaties in Hong Kong.

57. Ms Anna WU further suggested that the role of LegCo could further be enhanced in this respect and the Government should report the progress of its work in promoting human rights to LegCo on an annual basis. Mr Albert HO supported the suggestion of Ms WU.

58. To conclude, the Chairman thanked the deputations for expressing their views and invited them to attend the Panel meeting on 9 May 2003 to continue the discussion on the monitoring of the implementation of human rights treaties in Hong Kong.

**VI. Any other business**

59. There being no other business, the meeting ended at 1 pm.

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