

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)113/09-10
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 18 May 2009, at 3:00 pm
in the Chamber of the Legislative Council Building

Members present :

- Hon TAM Yiu-chung, GBS, JP (Chairman)
- Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
- Hon Albert HO Chun-yan
- Dr Hon Margaret NG
- Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
- Hon LAU Kong-wah, JP
- Hon Miriam LAU Kin-ye, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon Timothy FOK Tsun-ting, GBS, JP
- Hon Abraham SHEK Lai-him, SBS, JP
- Hon LI Fung-ying, BBS, JP
- Hon Audrey EU Yuet-mee, SC, JP
- Hon WONG Kwok-hing, MH
- Hon LEE Wing-tat
- Hon Jeffrey LAM Kin-fung, SBS, JP
- Hon LEUNG Kwok-hung
- Hon CHEUNG Hok-ming, SBS, JP
- Hon WONG Ting-kwong, BBS
- Hon Ronny TONG Ka-wah, SC
- Hon CHIM Pui-chung
- Prof Hon Patrick LAU Sau-shing, SBS, JP
- Hon Cyd HO Sau-lan
- Dr Hon LAM Tai-fai, BBS, JP
- Hon CHAN Kin-por, JP
- Dr Hon Priscilla LEUNG Mei-fun
- Hon CHEUNG Kwok-che
- Hon WONG Sing-chi
- Hon WONG Kwok-kin, BBS
- Hon WONG Yuk-man
- Hon IP Wai-ming, MH
- Hon IP Kwok-him, GBS, JP
- Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Dr Hon PAN Pey-chyou
- Dr Hon Samson TAM Wai-ho, JP

Members absent : Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon LAU Wong-fat, GBM, GBS, JP

Public Officers attending : Item IV

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer
Registration and Electoral Office

Dr KWAN Ming-tak
Senior Superintendent (Penal Administration)
Correctional Services Department

Item V

Mr Raymond TAM Chi-yuen
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Hubert LAW Hin-cheung
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mr CHOW Wing-hang
Principal Assistant Secretary for Security

Ms Helen TANG
Principal Assistant Secretary for Labour and Welfare

Ms LO Kit-wai, Gloria
Principal Assistant Secretary for Food and Health

Ms WU Po-ling
Principal Assistant Secretary for Education

Attendance by invitation : Item V

Playright Children's Play Association

Ms Kathy WONG
Executive Director

Treats

Ms Kris TONG
Director

Society for Community Organization

Miss SZE Lai-shan
Community Organizer

Hong Kong Association for the Survivors of Women Abuse
(Kwan Fook)

Ms LIU Ngan-fung
Chairperson

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Civic Party

Dr Fernando CHEUNG
Exco Member

Alliance for Children's Commission

Ms CHAN Chi-ying, Eliza
Member

Hong Kong Society for the Protection of Children

Ms SO Suk-yin, Susan
Director

Hong Kong Council of Social Service

Mr CHAN Kam-ming
Chief Officer, Service Development
(Children and Youth)

Hong Kong Human Rights Commission

Mr TSOI Yiu-cheong, Richard
Member

Against Child Abuse

Mrs Priscilla LUI
Director

Hong Kong Committee on Children's Rights

Ms Billy WONG
Executive Secretary

Kids' Dream

Mr Henry LEUNG
Member

Miss Elaina WONG
Member

Baby Friendly Hospital Initiative HK Association

Hong Kong College of Paediatricians

Dr IP Lai-sheung, Patricia

Unitarian Universalists Hong Kong

Ms Medeleine MOK
Vice-President

Equal Opportunities Commission

Ms Shana WONG
Head (Corporate Communications and Training)

Department of Community Medicine,
Li Ka Shing Faculty of Medicine,
University of Hong Kong

Prof Anthony HEDLEY
Chair Professor

ELCHK Uncle Long Legs' Letter Box,
ELCHK Kwai Chung District Support Centre

Ms LEUNG Ying-wai, Wendy
Centre-in-charge

Hong Kong Youth and Students Federation

Mr Rock LI Cheuk-yin
Chairman

Hong Kong Human Rights Monitor

Miss TSUI Ka-wing
Project and Education Officer

UNICEF

Miss MA Ka-wai, Alice
Education Officer

風雨同路

Ms Ah Po
Member

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fonny TSANG
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting
[LC Paper No. CB(2)1561/08-09]

The minutes of the meeting held on 19 January 2009 were confirmed.

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II. Information papers issued since the last meeting

2. Members noted that the following papers had been issued since the last meeting -

- (a) letter dated 29 April 2009 from the Chief Executive's Office to Hong Kong Journalists Association concerning access to information [LC Paper No. CB(2)1479/08-09(01)]; and
- (b) referral from the Complaints Division of the Legislative Council (LegCo) Secretariat on discrimination issues relating to sexual orientation and gender identity [LC Paper No. CB(2)1544/08-09(01)].

III. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1563/08-09(01) and (02)]

3. Members agreed to discuss at the next meeting on 15 June 2009 the following items proposed by the Secretary for Constitutional and Mainland Affairs (SCMA) -

- (a) Proposal on separation of posts of the Chairperson and the Chief Executive Officer of the Equal Opportunities Commission; and
- (b) Report of the Hong Kong Special Administrative Region (Part Two of the People's Republic of China report) submitted to the United Nations under the International Convention on the Elimination of All Forms of Racial Discrimination.

4. On the item referred to in paragraph 3(b) above, the Chairman said that the Panel had agreed at its meeting on 15 December 2008 to receive views from the public when the item was further discussed. The Chairman instructed the Clerk to post a notice on the website inviting views from members of the public. In response to Ms Emily LAU, Under Secretary for Constitutional and Mainland Affairs (USCMA) said that the United Nations (UN) hearing would be held between 3 and 21 August 2009. The exact dates for hearing China's report had yet to be confirmed.

(Post-meeting note: The Administration has subsequently informed the Panel that the said hearing on China's report will be held on 7 and 10 August 2009 [LC Paper No. CB(2)2117/08-09 issued on 6 July 2009].)

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5. Mr Ronny TONG said that Duty Roster Members had met with a deputation on 7 May 2009 regarding its request for legislation against discrimination issues relating to sexual orientation. Duty Roster Members had suggested that the Panel should set up a subcommittee to follow up the relevant issues. Mr Ronny TONG suggested that the issue be discussed at a future meeting. Ms Emily LAU concurred with Mr TONG and requested the Administration to provide a paper setting out the latest development to facilitate members' deliberation.

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6. The Chairman suggested and members agreed that the item be tentatively scheduled for the Panel meeting in July 2009. In response to members' request, SCMA undertook to provide a paper to update members on the Administration's position on the issue in due course.

IV. Practical arrangements for voting by prisoners

[LC Paper Nos. CB(2)1533/08-09(01) and CB(2)1539/08-09(01)]

7. SCMA said that following the meeting on 20 April 2009 at which the Panel was briefed on the results of the public consultation and the proposed way forward for the voting right of prisoners, the Voting by Imprisoned Persons Bill was introduced into LegCo on 6 May 2009.

8. Chief Electoral Officer (CEO) introduced the Administration's paper [LC Paper No. CB(2)1533/08-09(01)] which set out the proposed practical arrangements to facilitate the registration of prisoners as electors, and the voting by prisoners and persons held in custody including remanded and detained persons who were registered electors in public elections.

9. Members noted the updated background brief prepared by the LegCo Secretariat on the subject [LC Paper No. CB(2)1539/08-09(01)].

10. Ms Miriam LAU enquired about the procedure for an imprisoned person to be registered as an elector and how the Administration could identify a registered elector in a prison, especially in a by-election.

11. SCMA responded that after the Court ruling that the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote under the Legislative Council Ordinance (Cap. 542) were unconstitutional, the voter registration exercise conducted in 2009 was opened to prisoners. The Registration and Electoral Office (REO) had so far received about 200 applications from prisoners to be registered as electors. SCMA further said that in a by-election, REO would liaise closely with the Correctional Services Department (CSD) and other law enforcement agencies (LEAs) to identify registered electors of the constituency concerned, who were serving imprisonment terms or held in custody on the polling day, and inform them of the relevant

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polling arrangements. In the Sha Tin District Council Tai Wai constituency by-election held on 29 March 2009, two electors were identified to be remanded by CSD.

12. Ms Miriam LAU and Mr IP Kwok-him expressed concern about access to election-related materials by prisoners and electors who were remanded or detained by CSD or other LEAs.

13. SCMA and CEO responded that about three weeks before the polling day, REO would start to send poll cards together with candidates' introductory leaflets to prisoner-electors at their addresses in the penal institutions as far as practicable. For persons who were imprisoned after the election materials were sent out, additional copies of the candidates' introductory leaflets would be made available at CSD and other LEAs for their reference. Candidates would be provided with gum labels containing the registered address or correspondence address of the registered electors following the existing practice for mailing election advertisements. In other words, those prisoners who had been registered as electors would receive election advertisements either at their residential address or correspondence address. If they had registered the prison addresses as their correspondence addresses, they would receive the election advertisements in prisons.

14. CEO further said that officers of CSD and LEAs would enquire the persons who were remanded or detained whether they were registered electors. If so, relevant copies of candidates' introductory leaflets would be handed over to them. Given the mobility of persons who were remanded or detained by CSD or LEAs, additional copies of the candidates' introductory leaflets would also be made available at CSD and other LEAs for such persons' reference.

15. Ms Miriam LAU and Mr IP Kwok-him expressed concern that the counting of prisoners' votes would prolong the overall counting process of a constituency. Ms LAU pointed out that the counting of ballot papers in a District Council (DC) election could be unduly long when the prison was located far from the main counting station of the constituency concerned. Ms LAU and Mr IP enquired about the measures to expedite the counting process.

16. SCMA and CEO responded that dedicated polling stations would be set up inside the penal institutions of CSD or other suitable places such as police stations and registered electors who were imprisoned or held in custody would be allocated to vote in the respective dedicated polling stations. One or more ballot paper sorting stations would be designated for sorting ballot papers cast at dedicated polling stations according to each geographical constituency for LegCo general election, each constituency for DC ordinary election or each village for village representative election before the ballot papers were transferred to the respective main counting stations. The Administration would arrange sufficient transport to ensure that the ballot papers would be delivered to the ballot paper sorting stations

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and to the main counting station promptly. The polling hours for dedicated polling stations at penal institutions would run from 9:00 am to 4:00 pm whereas those set up in police stations would operate from 7:30 am to 10:30 pm. To ensure transparency, the sorting process would be open for observation. To preserve the secrecy of votes, an envelope would be used to enclose a DC or a village representative ballot paper cast at a dedicated polling station.

17. Ms Emily LAU queried whether it was reasonable to prohibit a prisoner who was a registered elector from voting at a dedicated polling station after 4:00 pm instead of 10:30 pm, and why a Presiding Officer should be empowered to order a registered elector to leave the dedicated polling station if the elector failed to cast his vote within a reasonable period of time.

18. SCMA and Senior Superintendent (Penal Administration) of CSD (SSPA) responded that the reason for shortening the opening hours of dedicated polling stations was due to operational need. For security reasons, prisoners were usually segregated and were prohibited from staying in any place for a prolonged period of time. Preparation would be made to facilitate prisoners to vote for their constituency at different time slots to ensure that voting in dedicated polling stations would be conducted in an orderly manner. The reason for empowering a Presiding Officer to order a registered elector to leave the dedicated polling station was to ensure that a prisoner-electoral would cast his vote within the scheduled time and would not create unnecessary delay to other voters. The polling at dedicated polling stations was expected to be completed at around 3:00 pm, leaving one hour to deal with contingency matters such as any delay in voting. In line with the established practice, an elector who had entered a polling station before the close of poll would be allowed to vote. In addition, arrangement would be made to enable a prisoner-electoral who had been transferred to another penal institution to vote at an appropriate dedicated polling station.

19. Ms Emily LAU enquired why the disclosure of the identity of electors inside a dedicated polling station would be prohibited, and what action would be taken by CSD to prevent prisoners from voting for a particular candidate under force, duress or threat.

20. CEO responded that the reason for prohibiting disclosure of the identity of electors inside a dedicated polling station was to protect the privacy of these electors who might not wish to reveal their identity as prisoners. SSPA supplemented that after enactment of the Voting by Imprisoned Persons Bill, prisoners would be informed of their voting right and the practical arrangements for registration and voting. Under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a person who engaged in corrupt conduct at an election such as using force or duress to induce another person to vote at the election for a particular candidate or candidates committed a criminal offence.

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21. In response to Ms Emily LAU's question about legislative timetable, SCMA said that the Administration would introduce a set of subsidiary legislation on practical voting arrangements into LegCo and another set of subsidiary legislation on electoral registration arrangements after enactment of the Voting by Imprisoned Persons Bill. The Administration hoped to bring into operation the provisions in the Bill and the relevant subsidiary legislation as early as possible since the 10-month temporary suspension order granted by the Court would expire at the end of October 2009.

V. An outline of the topics in the second report on the Hong Kong Special Administrative Region under the Convention on the Rights of the Child

[LC Paper Nos. CB(2)1311/08-09(05) and (06), CB(2)1563/08-09(03)-(09), CB(2)1610/08-09(01)-(09) and 1821/08-09(01)]

22. Members noted the following papers on the subject under discussion -

- (a) Administration's paper on "An outline of the topics in the second report on the Hong Kong Special Administrative Region under the Convention on the Rights of the Child" [LC Paper No. CB(2)1311/08-09(05)]; and
- (b) background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)1311/08-09(06)].

Presentation of deputations' views

23. The Chairman invited deputations to give views on the outline of the topics in the second report on the Hong Kong Special Administrative Region (the HKSAR report) under the UN Convention on the Rights of the Child (CRC).

24. Ms Kathy WONG said that she represented both the Playright Children's Play Association (PCPA) and the Alliance for Children's Commission. The Alliance which consisted of over 20 members was set up for the purpose of monitoring the implementation of the spirit of CRC and the setting up of a Commission on Children. Ms WONG then presented the views of PCPA with particular concern on Article 31 of CRC relating to the child's right to rest, leisure, recreation and cultural and artistic activities. Details of the views of PCPA were set out in its submission [LC Paper No. CB(2)1610/08-09(01)]. Ms WONG added that as LegCo had passed a motion at the Council meeting on 8 June 2007 urging the Government to set up a Commission on Children to protect the rights and welfare of children, the Administration and LegCo should actively pursue the matter.

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25. Ms Kris TONG presented the views of Treats as detailed in the submission [LC Paper No. CB(2)1610/08-09(02)]. She expressed concern about the protection for vulnerable groups of children especially those who were mentally or physically disabled. She urged that a data bank collecting statistics on disabled children should be established so as to enable the development, implementation and monitoring of appropriate policies and programmes to help disabled children integrate into society and have equal access to education. Treats advocated the setting up of a Commission on Children to monitor children's rights and implementation of CRC.

26. Miss SZE Lai-shan presented the views of the Society for Community Organization (SOGO) as summarised below -

- (a) the UN Committee on the Rights of the Child (the UN Committee) had made various recommendations in its Concluding Observations [Annex to LC Paper No. CB(2)1311/08-09(05)] but the Administration had not taken any action to follow up. The Administration had not allocated enough resources to tackle child poverty, to increase subsidies for children under the Comprehensive Social Security Assistance (CSSA) Scheme, to set a poverty line for children and to enhance the welfare of new arrivals from the Mainland;
- (b) in the midst of the financial tsunami, the number of poverty children had increased by tens of thousands. The Administration should review the CSSA Scheme with a view to increasing payments to children, as they did not receive adequate subsidies to meet their basic necessity and educational needs. While CSSA payments had been adjusted downward in 2003 due to deflation, there was no corresponding upward adjustments following inflation in recent years; and
- (c) as the scope of the Race Discrimination Ordinance did not cover new arrivals from the Mainland, there was no avenue for them to lodge complaints if their children were discriminated against in schools or in the community. The Administration had not covered in the HKSAR report the above problems and the problems of children living in caged homes and being left unattended because their mothers were on the Mainland.

27. Ms Ah Fa of Hong Kong Association for the Survivors of Women Abuse (Kwan Fook) (HKASWA) said that new arrival children who were living in poverty were not receiving adequate allowances under the CSSA scheme to meet their needs for basic necessities. Given that the education allowances they received were also limited, they could not afford to take part in many extra-curricular activities. As a result, these children felt inferior and were being

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discriminated against which had impacted on their personal development. Ms LIU Ngan-fung of HKASWA added that paragraphs 50 and 57 of the Concluding Observations highlighted the problems of children being deprived of family environment, child abuse and family violence. The Administration should review the existing policies and provide adequate services to address these problems. Views of HKASWA were detailed in its submission [LC Paper No. CB(2)1610/08-09(03)].

28. Dr Fernando CHEUNG presented the views of Civic Party as summarised below -

- (a) the fact that about 25% of the children in Hong Kong were living in poverty was unacceptable for a city as developed as Hong Kong;
- (b) there were different vulnerable groups of children in Hong Kong, including ethnic minority children, new arrival children, disabled children, single-parent children, refugee children, etc. The Administration had not provided adequate support for these children to ensure their access to education, health and welfare services, etc.; and
- (c) despite LegCo had passed a motion in June 2007 urging the setting up of a Commission on Children, the Administration had not pursued the matter. LegCo should follow up the matter actively with the Administration.

29. Ms Eliza CHAN Chi-ying said that the Alliance for Children's Commission (the Alliance) was particularly concerned about the rights of the child to receive information from the media, especially through television. She urged the Broadcasting Authority to ensure that the contents of programmes broadcasted during the family viewing time (7:30 pm to 9:30 pm) were suitable for children and to consider extending the family viewing time to 10:00 pm. She also expressed concern that television operators had not produced programmes for children aged between three and six. She supported the setting up of a Commission on Children which could advise the Broadcasting Authority on programmes for children. Details of the views of the Alliance were set out in its submission [LC Paper No. CB(2)1563/08-09(03)].

30. Ms Susan SO Suk-yin presented the views of Hong Kong Society for the Protection of Children (HKSPC) as detailed in the submission [LC Paper No. CB(2)1610/08-09(04)]. HKSPC considered that the Administration should set out in the HKSAR report the deficiencies of the existing child-care services, services for new arrival children and the kindergarten voucher scheme. She also urged the Administration to set up a data bank for children and a Commission on Children.

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31. With reference to the Concluding Observations, Mr CHAN Kam-ming presented the views of Hong Kong Council of Social Service (HKCSS) as summarised below -

- (a) children being deprived of family environment (paragraph 49 of the Concluding Observations) - the Administration should include in the HKSAR report information on the number of children who were in institutional residential care, the number of children waiting to be admitted under such residential care, and the average waiting time for admission into these residential care homes, in order to ascertain the adequacy of such services provided to children who were abused or being neglected;
- (b) children with disabilities (paragraph 60 of the Concluding Observations) - the Administration should advise whether children with learning difficulties and hyperactive children were regarded as children with disabilities. The Administration should also provide information on the services provided to these children, such as whether they had received equal treatment in examination, and whether they were eligible to receive pre-employment and vocational training; and
- (c) mental health services for children (paragraph 66 of the Concluding Observations) - the Administration should provide information on the number of mentally-ill children and the mental health services available.

32. Mr Richard TSOI Yiu-cheong of Hong Kong Human Rights Commission (HKHRC) said that the Administration had not taken action to respond to the recommendations made in the Concluding Observations. The views of HKHRC were summarised below -

- (a) the deadline for a State Party to submit its report to the UN Committee was 31 March 2009. Given that the HKSAR Government had only prepared an outline on the report, its delay in the submission of a report which formed part of the China report was disrespectful to the UN Committee and the community at large, and LegCo had a monitoring role to play in this regard;
- (b) the Administration had failed to develop a Plan of Action for the implementation of CRC in Hong Kong as recommended in the Concluding Observations. In addition, it had not drawn up a poverty line to protect children;
- (c) the Administration had not set up an independent national human rights institution or a Commission on Children in Hong Kong as recommended in the Concluding Observations; and

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- (d) the Administration had not guaranteed access to education for refugee children and undocumented migrant children.

33. Mrs Priscilla LUI of Against Child Abuse (ACA) said that conducting public consultation on the basis of the outline of the topics of the HKSAR report which was very flimsy, rather than the full report itself, was not adequate. In addition, the HKSAR report should give an account of the effort made by the Administration to implement CRC, the difficulties it encountered and the deficiencies of the measures implemented. Details of the views of ACA were set out in its submission [LC Paper No. CB(2)1563/08-09(04)].

34. Ms Billy WONG of Hong Kong Committee on Children's Rights (HKCCR) was particularly concerned about the action taken by the Administration in respect of the formulation of a Plan of Action for the implementation of CRC in Hong Kong and the setting up of a Commission of Children. She said that the Administration should address these two issues in the HKSAR report. Views of HKCCR were detailed in its submission [LC Paper No. CB(2)1563/08-09(05)].

35. Mr Henry LEUNG and Miss Elaina WONG presented the views of Kids' Dream (KD) as detailed in the submission [LC Paper No. CB(2)1563/08-09(06)]. KD advocated the setting up of a Commission on Children which could not be replaced by the Children's Rights Forum as the latter was only an ad hoc platform to collect children's views. KD was also concerned about the psychology of children. According to a report issued by the Hospital Authority in 2007, children with emotional and mental problems had increased by 60% due to pressure from school. In Hong Kong, there were only about 20 children psychiatrists and a child had to wait 18 to 36 months to receive medical treatment. KD supported the introduction of a legislation to limit working hours so that parents could spare more time to take care of their children.

36. Dr Patricia IP Lai-sheung presented the views of Baby Friendly Hospital Initiative Hong Kong Association (BFHIHK) as detailed in the submission [LC Paper No. CB(2)1563/08-09(07)]. BFHIHK called on the Government to protect the rights of the child to be breastfed by introducing a comprehensive policy for breastfeeding in Hong Kong.

37. Dr Patricia IP Lai-sheung of Hong Kong College of Paediatricians (HKCP) said that the Administration should give a comprehensive reply to the UN Committee in respect of its child policy, progress on the establishment of a Commission on Children, legislation to implement the spirit of CRC and the setting up of a data bank for children issues, etc. She said that the HKSAR report should cover topical issues such as drug abuse in schools, campus violence, and sexual indulgence of teenagers. The Administration should tackle the above problems and put in place a proper mechanism to promote and protect the rights of the child. Details of the views of HKCP were set out in its submission [LC Paper No. CB(2)1563/08-09(08)].

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38. Ms Medeleine MOK of Unitarian Universalists Hong Kong (UUHK) expressed concern that the HKSAR report had not addressed the issues raised in the Concluding Observations including the setting up of a national human rights institution, introducing legislation to combat discrimination against refugee, asylum-seeking and undocumented migrant children in Hong Kong, introducing legislation to combat discrimination against sexual orientation and to prohibit corporal punishment, guaranteeing freedom of religion for children, etc. Details of the views of UUHK were set out in its submission [LC Paper No. CB(2)1610/08-09(05)].

39. Ms Shana WONG presented the views of Equal Opportunities Commission (EOC) as detailed in the submission [LC Paper No. CB(2)1563/08-09(09)]. EOC was concerned about the rights of the child, especially in the area of education. EOC urged the Government to improve the support for children with specific learning disabilities and those with hyperactivity disorder, as well as the support for ethnic minority children to receive quality education to ensure equal opportunity for admission to mainstream schools and tertiary institutions.

40. Professor Anthony Hedley presented the views of the Department of Community Medicine, Li Ka Shing Faculty of Medicine, University of Hong Kong (DCMHKU) as set out in his speaking notes [LC Paper No. CB(2)1610/08-09(06)], in addition to the views expressed in the submission [LC Paper No. CB(2)1610/08-09(07)]. In gist, DCMHKU was concerned about the widespread involuntary exposure and harm to health of children which was caused by air pollution.

41. Ms Wendy LEUNG Ying-wai said that ELCHK Kwai Chung District Support Centre (ELCHK) was particularly concerned about the rights of children with disabilities. Given that the Government had not drawn up policies from the perspective of children with disabilities, the support it provided in the area of education was grossly inadequate. For instances, there were no occupational therapist, physiotherapist, speech therapist in specialised schools catered for autistic, hyperactive and mentally retarded children; the curriculum adopted for children who were mildly retarded were outdated; children with disabilities were forced to leave school after reaching the age of 18; and there was no tertiary institutions dedicated for children with disabilities. Details of the views of ELCHK were set out in its submission [LC Paper No. CB(2)1610/08-09(08)].

42. Mr Rock LI Cheuk-yin of Hong Kong Youth and Students Federation (HKYSF) urged the Administration to step up promotion to educate the public about the rights of the child, to provide avenues for children to express their views freely in all matters affecting them and to give due weight to these views in developing relevant policies and programmes. Details of the views of HKYSF were set out in its submission [LC Paper No. CB(2)1610/08-09(09)].

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43. Miss TSUI Ka-wing of Hong Kong Human Rights Monitor (HRM) said that the Administration had not done enough to implement the spirits of CRC in Hong Kong. For instances, there was no voice to represent the rights of the child; the children's forum could not collect systematically children's views on policies or programmes affecting them; the support services provided to cross-border children, single-parent children, ethnic minority children, refugee and non-documented migrant children were inadequate; and the resources allocated for promoting awareness of human rights and educating the public about the rights of the child were insufficient. The HKSAR report should give an account of the work done by the Administration in response to the recommendations made in the Concluding Observations, the difficulties it encountered, reasons why measures were not implemented to address certain issues raised in the recommendations, and the timetable to implement these measures.

44. Miss Alice MA Ka-wai of UNCIEF said that given the low awareness of the rights of children under CRC among students and teachers, the Administration should allocate more resources to step up its promotional effort in schools, including providing training to teachers.

45. Ms Ah Po of 風雨同路 who was a single mother from the Mainland without right of abode in Hong Kong gave an account of the problems she faced in taking care of her son. She said that her family had to rely on her son's CSSA payment for a living and had been living in poverty. Ms Ah Po requested the Administration to review its policy for cross-border children and to allocate adequate resources to protect the rights of these children in poverty.

Discussion with deputations

46. Ms Emily LAU expressed disappointment that the Chairman of EOC had not attended the meeting. She said that with the role to implement the four anti-discrimination ordinances, EOC should have been proactively protecting the rights of disabled children, single-parent children and ethnic minority children. While non-government organisations (NGOs) had done a lot to protect the rights of the child and The Ombudsman had criticised about the deficiency of education support for children with specific learning disabilities, EOC had not reported anything to UN. She said that EOC should have done more than just expecting the children of the vulnerable groups would enjoy their full rights in receiving education, as stated in its submission. For instance, EOC should institute legal proceedings against the Government for such purpose when warranted. Ms LAU expressed concern that EOC had rarely taken legal actions under the anti-discrimination ordinances in recent years.

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47. Ms Shana WONG of EOC said that EOC had submitted reports to UN in the past, although it had not submitted a report relating to CRC. She said that EOC had a complaint mechanism under which an aggrieved person could lodge a complaint with EOC which would investigate into the case. EOC would try to resolve the dispute by conciliation, failing which legal assistance might be offered. As many of the cases had been resolved by conciliation before trial, the number of legal actions taken had been few. This, however, did not mean that EOC was not concerned about racial and disability discrimination and equal opportunity for children to receive education. EOC had issued a code of practice on education to protect the interest of persons with disabilities including children. It had also promoted racial equality and disability rights to schools.

48. Mr Albert HO said that the problems raised by The Ombudsman about serious deficiency in the education support for children with specific learning disabilities had been a long standing problem, which contravened the International Convention on the Elimination of All Forms of Racial Discrimination. He said that EOC should exert pressure on the Government in case of any non-compliance with the Convention. When a question of principle was involved, EOC should institute legal actions rather than resorting to conciliation.

49. Ms Cyd HO expressed concern about violence against children. She said that some children did not know how to voice their grievances and even they did, their views were very often ignored. She noted that some children were led to believe that corporal punishment would foster perseverance. Ms HO said that if the problem of violence against children was not rectified, it would carry on generation after generation. Hence, there was a need to stop the culture of rationalising violence against children. In her view, the Administration should legislate against corporal punishment. Given that children relied on adults to protect their interests and it was difficult for adults to regulate their own conduct, Ms HO sought views from ACA on how to deal with the problem.

50. Mrs Priscilla LUI of ACA said that she had been in the profession for over 30 years and violence against children had been a difficult problem. She had seen some persons turning from abused children to child abusers when they grew up. She was glad to see that some progress had been made to prevent child abuse in recent years. In 2006, UN had conducted an international study which revealed that corporal punishment was very common in developed and developing countries. In 2009, UN Secretary-General appointed Marta Santos Pais of Portugal as his special representative on violence against children at the level of Assistant Secretary-General. Mrs LUI emphasised that preventive and remedial measures to tackle child abuse must be supported by sufficient resources. At present, most resources were allocated to implement clinic-based remedial measures rather than preventive measures. She considered that the promotion of violence-free culture an important and effective measure to prevent child abuse. She hoped that different sectors of the society would work together to promote such a culture in the community.

Action

51. Mrs Sophie LEUNG said that the press had reported today a survey result that 160 out of some 230 teenagers had admitted that they had engaged in gang violence. As gang violence in schools had become more prevalent, Mrs LEUNG sought the views of deputations on how to deal with the problem.

52. Mr Richard CHOI of HKHRC said that the problem of gang violence boiled down to two questions, i.e. whether there were enough channels for children from different strata to voice their concerns, and whether the Administration had implemented appropriate policies and allocated sufficient resources to provide favourable conditions to foster the healthy growth of children. The problem of gang violence would be resolved if the Administration had implemented measures to address the above two questions.

Discussion with the Administration

53. USCMA said that he would like to respond to the following points raised by deputations -

- (a) on the timing to submit the HKSAR report to UN raised by HKHRC, the Administration would submit its report, which formed part of the China report, to China within the timeframe specified by the Central Authorities; and
- (b) on the collection of statistics, the Home Affairs Bureau which previously handled the human rights portfolio had collected some of the statistics mentioned by deputations. The Constitutional and Mainland Affairs Bureau would update these statistics on the website as appropriate. It would also consider whether additional statistical information should be collected as suggested by some deputations.

54. Mr WONG Yuk-man said that as children issues straddled over a number of policy areas including education, health and welfare, security, etc., representatives of the relevant policy bureaux should have attended the meeting to discuss the issue. He added that LegCo, NGOs and deputations had reached a consensus on the establishment of a Commission on Children, and enquired about the Administration's position on the matter.

55. Mr Ronny TONG said that the remarks of CE that children's rights could be protected in the family context by the establishment of the Family Council indicated his lack of understanding of the issue. He considered that the Family Council would accord priority to the interest of adults over those of the children. He enquired whether the Administration intended to set up a Commission on Children and, if not, the justification for it.

Action

56. USCMA responded that deputations and members had raised three main concerns about protecting children's rights, namely whether sufficient channel had been provided to children to express their views; whether the policies and support services for children had been co-ordinated effectively among relevant bureaux and departments; and whether a mechanism was in place to monitor the implementation of CRC in Hong Kong. As explained at the last Panel meeting, the Administration considered that the existing arrangements of different bureaux formulating policies for the respective areas affecting children's rights and using various channels to consult relevant parties provided an appropriate mechanism to enable quick and flexible responses to address the needs of children. The three concerns raised at this meeting had been dealt with adequately by the existing mechanism. Apart from school, the family had been recognised as the core unit of society providing the natural environment for the growth and well-being of children. The Family Council provided a platform to deliberate relevant policies to ensure the best interest of the child was considered from the family perspective. While the Family Council had only been in operation for a short period of time, in the long run it would perform its functions effectively. The Administration would examine whether the existing mechanism could be improved by organising more forums for children to discuss topical issues, and collecting more systematically the views on issues relating to children's rights. The Administration did not see the need to establish a Commission on Children at this stage.

57. Mr Albert HO expressed regrets that the Administration had rejected the recommendation of UN to set up a Commission on Children. He envisaged that NGOs attending the UN hearing would reprimand the Administration on the matter. In his view, the Family Council was not the appropriate forum to discuss children's rights. At a recent meeting of the Panel on Welfare Services at which members were briefed on the work of the Family Council, the main discussion was on moral and core family values. He pointed out that the problems faced by children were very basic. If their basic rights to receive education, health care, family care, and material support could not be protected, it was not meaningful to discuss family core values. Mr HO said that a Commission on Children advocated by members was one which should be given the power and responsibility of examining policies, funding allocations and legislation to assess their impact on the well-being of children. The Commission was a high-level and central mechanism which could not be substituted by the Family Council.

58. Mr LEUNG Kwok-hung said that the most vulnerable group of children was those in poverty. The adoption of seven years' residence requirement to be an eligible criterion for social security benefits had made the situation worse for new arrival children and their parents. He considered that such a problem could not be tackled by the Family Council.

Action

59. Mr CHEUNG Kwok-che said that the community had a general aspiration for a central mechanism to formulate and monitor the implementation of policies in relation to children's rights. Had the existing institutional mechanism which straddled various policies under the purview of different bureaux been effective in protecting children's rights, deputations attending the meeting would not have asked for the establishment of a Commission on Children. While the Children's Rights Forum and Family Council would serve their own purposes, it could not take the place of a Commission on Children which would comprise members of NGOs to represent the voice of children and to monitor the work of the Government on the implementation of CRC.

60. USCMA reiterated that the existing arrangement under which each policy bureau was responsible for ensuring that the interests of children were well taken into account in its formulation of policies was effective. In addition, the Administration had an internal mechanism to coordinate inter-departmental issues under the leadership of the Chief Secretary for Administration. For instance, any change in policies or launching of a new policy had to be endorsed by the Policy Committee chaired by the Chief Secretary for Administration. The mechanism had ensured that policies were well coordinated to cater for children's needs and interests. If members were concerned that the voice of the children was not being adequately heard, it was possible to make better use of the platform of the Children's Rights Forum to enhance community participation. USCMA said that he had attended a session of the Children's Right Forum at which the issue of mandatory drug test on young people was discussed. The useful exchanges of views between children's representatives and representatives of the Narcotics Division demonstrated that the Children's Rights Forum had been effective in collecting the views of children.

Motion moved by members

61. Mr LEUNG Kwok-hung moved the following motion which was seconded by Mr CHEUNG Kwok-che -

"本會強烈譴責政府拒絕成立兒童事務委員會，並要求當局立即著手成立，以落實聯合國兒童權利公約。" (議案原文)

(Translation)

"That this Panel strongly condemns the Government for its refusal to set up a Commission on Children, and requests it to proceed to do so immediately in order to implement the United Nations Convention on the Rights of the Child."

62. The Chairman put the motion to vote. Nine members voted for and no member voted against the motion, while four members abstained from voting. The Chairman declared that the motion was carried.

Action

63. The meeting ended at 5:35 pm.

Council Business Division 2
Legislative Council Secretariat
27 October 2009