

立法會
Legislative Council

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LC Paper No. CB(2)1476/12-13
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 18 March 2013, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan

Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, JP
Dr Hon CHIANG Lai-wan, JP

Member attending Hon WU Chi-wai, MH
Dr Hon Fernando CHEUNG Chiu-hung

Members absent : Hon WONG Yuk-man
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon CHAN Chi-chuen
Hon Tony TSE Wai-chuen

Public Officers attending : Item III

Mr LAU Kong-wah
Under Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

Mr CHEUNG Doi-ching
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mr Godfrey KAN
Senior Assistant Solicitor General
Department of Justice

Mr Stephen YIP
Principal Assistant Secretary (Curriculum Development)
Education Bureau

Item IV

Mr LAU Kong-wah
Under Secretary for Constitutional and Mainland Affairs

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and Mainland
Affairs

Mr LI Pak-hong
Chief Electoral Officer
Registration and Electoral Office

Mr SHUM Nam-lung
Deputy Chief Electoral Officer (Operations)
Registration and Electoral Office

**Attendance by : Item III
invitation**

Hong Kong Christian Institute

Mr Andrew SHUM Wai-nam
Programme Secretary (Social Concern)

Ms Puja Kapai

Hong Kong Human Rights Monitor

Ms Debbie TSUI
Project & Education Officer

Against Child Abuse Ltd

Dr Jessica HO
Director

Baby Friendly Hospital Initiative Hong Kong Association

Dr Patricia IP
Chairman

The Civic Party

Mr Alvin YEUNG
Executive Committee Member

Amnesty International Hong Kong

Miss Jenny NGAI
Campaigner

The Boys' & Girls' Clubs Association of Hong Kong

Ms HO Ka-yan
Strategy & Development Officer

Family Value Foundation of Hong Kong

Mr Anton WAN
General Secretary

Baptist Oi Kwan Social Service

Mr Raymond CHIU
Service Co-ordinator

Labour Party

Mr CHIU Shi-shun

Rainbow Action

Mr Jimmy SHAM
Spokesperson

Transgender Group

Miss Angel TSANG Hon-wai
Spokesperson

Women Coalition of HKSAR

Miss Wai Wai
Spokesperson

Hong Kong Committee for UNICEF

Ms Sofia FUNG
Assistant Manager - Education

UNICEF Voices of Youth

Miss Anita LO Ying-ying
Youth Representative

Kids' Dream

Miss Dorothy LUI
Member

Mr Henry LEUNG

Miss LI Cheuk-ying

Hong Kong Society for the Protection of Children

Mr MAK Kang-ying
Service Director

Hong Kong Committee on Children's Rights

Mrs Priscilla LUI
Vice-Chairman

Ms Eliza C Y CHAN

Ms Billy WONG

Playright Children's Play Association

Ms Kathy WONG
Executive Director

Forthright Caucus

Ms Ah Yin
Member

Ms LIU Ngan-fung
Assistant

Hong Kong Unison

Ms Fermi WONG Wai-fun
Executive Director

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

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

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I. Information papers issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)782/12-13(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 15 April 2013 -

(a) date for postponed or adjourned elections of the District Councils ("DC"), the Legislative Council ("LegCo") and Village Representatives; and

(b) Election of LegCo: Election Forums.

3. Referring to her letter dated 15 March 2013 to the Chairman [LC Paper No. CB(2)833/12-13(01)], Ms Emily LAU said that following the hearing of the United Nations Human Rights Committee ("UNHRC") on the third report of the Hong Kong Special Administrative Region ("HKSAR") under the International Covenant on Civil and Political Rights recently held in Geneva, the relevant concluding observations would be issued around end of March 2013. She proposed that the Panel should discuss the relevant issues with deputations and the Administration. In response to the Chairman's enquiry, Under Secretary for Constitutional and Mainland Affairs ("USCMA") said that the Administration had provided its response to the "List of issues" issued

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by UNHRC in connection with the consideration of HKSAR's third report. The relevant concluding observations would be issued around end of March 2013. USCMA suggested that, as the Administration would need some time for study of the relevant recommendations, the proposed item should be discussed at the May meeting. Members agreed. At the request of members, USCMA agreed to provide a copy of the Administration's response to UNHRC's "List of issues" to the Panel for members' reference.

(Post-meeting Note: The Administration's written response to the list of issues raised by UNHRC was circulated vide LC Paper No. CB(2)882/12-13(01) on 27 March 2013.)

4. Referring to her another letter dated 18 March 2013 to the Chairman [LC Paper No. CB(2)833/12-13(02)], Ms Emily LAU proposed to request the Research Office to conduct a research study on issues relating to the implementation of universal suffrage for the CE election in 2017, such as information on "pre-selection" and "screening" of candidates and the voting procedures for election by universal suffrage (where over one round of voting was involved) in overseas jurisdictions. As no members raised objection, the Chairman said that the request would be relayed to the Research Office, which would provide a proposed outline of study for members' consideration first.

III. Second Report of HKSAR under Convention on the Rights of the Child

[LC Paper Nos. CB(2)768/12-13(01), CB(2)782/12-13(03) to (06) and CB(2)797/12-13(01) to (03)]

5. Members noted the updated background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)782/12-13(03)].

Presentation of views by deputations/individuals

Hong Kong Christian Institute
[LC Paper No. CB(2)838/12-13(01)]

6. Mr Andrew SHUM Wai-nam criticized the Administration for failing to provide sufficient resources to promote human rights education. He advised that, according to some studies, many teachers were found to have limited knowledge about human rights and more than 40% of the teachers interviewed

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considered that they were not competent to teach human rights subjects. Mr SHUM was also concerned that students were subject to indoctrination of national values by the Administration. He suggested that a review of the relevant textbooks and subjects should be carried out expeditiously.

Ms Puja Kapai

7. Ms Puja Kapai expressed concern about the lack of adequate measures to address the special needs of children who were marginalized by multiple factors including poverty, disabilities, sexual orientations and race. She also pointed out the lack of a Chinese Language curriculum to equip ethnic minority children with the skills to read, write and speak Chinese effectively. Their chances of receiving higher education and getting employment were therefore fundamentally undermined.

Hong Kong Human Rights Monitor
[LC Paper No. CB(2)838/12-13(02)]

8. Ms Debbie TSUI stressed the importance of human rights education and urged the Administration to review the existing human rights and civic education by making reference to the World Programme for Human Rights Education. She also pointed out that the Administration had failed to attach importance to the right of the children to participate in policy making and had failed to clarify the vague definition of "obscene and indecent" in the second round of public consultation on the Review of the Control of Obscene and Indecent Articles Ordinance (Cap. 390). With respect to the prevailing problem of sexual harassment at schools, she called on the Administration to implement appropriate measures to address the problem and to promote open discussion on issues relating to sex, sexuality, sexual autonomy and respect for different sexual orientations. In addition, she called for the setting up of a Children's Commission.

Against Child Abuse Ltd
[LC Paper No. CB(2)782/12-13(04)]

9. Dr Jessica HO pointed out that the Administration had yet to respond to some of the recommendations made by United Nations Committee on the Rights of the Child ("the UN Committee") when it considered the HKSAR's first report in 2005. They included the Administration's failure to set up an independent mechanism to monitor the implementation of policies in relation to the rights of the child, enact legislation to prohibit corporal punishment in

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the family, and raise the minimum age of criminal responsibility from the age of 10 to an internationally acceptable level. Dr HO also called for the setting up of a Children's Commission.

Baby Friendly Hospital Initiative Hong Kong Association
[LC Paper No. CB(2)797/12-13(01)]

10. Dr Patricia IP called on the Administration to promote breastfeeding through the implementation of the International Code of Marketing of Breastmilk Substitutes and the promotion of Baby Friendly Hospitals. She expressed regret that the "Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children" had yet to be enforced in Hong Kong.

11. Dr Patricia IP requested that the Food and Health Bureau should implement the "Ten Steps to Successful Breastfeeding" promulgated by the World Health Organization and United Nations Children's Fund, and accredit hospitals with maternity units as Baby Friendly Hospitals. Also, the Labour and Welfare Bureau should consider extending the 10-week maternity leave and offer job protection to working mothers who opted for taking no-pay leave to look after their children. In addition, the Government should introduce a mandatory requirement of provision of breastfeeding rooms in buildings. Furthermore, promotion by the formula milk industry of their products in teaching materials should be prohibited.

The Civic Party
[LC Paper No. CB(2)797/12-13(02)]

12. Mr Alvin YEUNG expressed disappointment that the Administration failed to address the issues concerning children of Mainland-HKSAR families being left alone in Hong Kong due to the passing away or disappearance of their Hong Kong parents. He called on the Administration to review the existing quotas for One Way Permits and grant the unused quotas to the Mainland parents of these children to come to Hong Kong to look after their children. He also urged the Administration to provide assistance to children from poor families and ethnic minority children, such as implementing a "Chinese as second language" curriculum for ethnic minority children.

Amnesty International Hong Kong
[LC Paper No. CB(2)838/12-13(03)]

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13. Miss Jenny NGAI put forward a number of suggestions as detailed in the submission of Amnesty International of Hong Kong, including: (a) reviewing the existing curricula and revising the relevant education policies with a view to promoting human rights education as a core subject; (b) strengthening professional development programmes on human rights education for teachers; (c) increasing allocation of resources for both the Children's Rights Education Funding Scheme and the Community Participation Scheme to implement additional initiatives relating to children's rights education; and (d) enhancing the functions of the Children's Rights Forum and the Children's Council to strengthen communication between children and the Government.

The Boys' & Girls' Clubs Association of Hong Kong
[LC Paper Nos. CB(2)782/12-13(05) and CB(2)877/12-13(01)]

14. Ms HO Ka-yan said that the Administration should set up a Children's Commission with a view to monitoring the implementation of the Convention on the Rights of the Child ("CRC") in Hong Kong. She further suggested that the Administration should implement a "Child Impact Assessment" to ascertain the effectiveness of its population policies, and a "Budget for Children" to ensure that the Administration gave due consideration to the needs of children in its financial planning.

Family Value Foundation of Hong Kong

15. Mr Anton WAN expressed the view that a large number of parents whom he was acquainted with had little knowledge of the values promulgated in CRC. He also stressed the importance of family and marriage in the development of children, and called on the Administration to take into consideration the perspective of children's rights in its implementation of new policies and legislation. In the absence of a Children's Commission, he was concerned as to how the Administration would protect the rights and needs of children. Mr WAN requested the Panel to continue to closely monitor the work of the Administration in promoting and protecting the rights of children.

Baptist Oi Kwan Social Service
[LC Paper No. CB(2)838/12-13(04)]

16. Mr Raymond CHIU said that there were more than 290 000 children in poverty in Hong Kong, with nearly 20 000 of them living in sub-divided units, partitioned flats or cubicle apartments. These children suffered from the lack

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of space for study and activities, as well lack of proper meals as their parents had to work long hours. Baptist Oi Kwan Social Services had started the service of "童心飯堂" since January 2013 to provide nutritious dinner to children of low-income families and their family members. Library service and homework support were also provided for the children. Mr CHIU also called on the Administration to set up a Children's Commission.

Labour Party

[LC Paper No. CB(2)838/12-13(05)]

17. Mr CHIU Shi-shun made a number of suggestions as detailed in the submission of the Labour Party, which included: (a) reviewing the minimum age for society registration under the Societies Ordinance (Cap. 151) to safeguard the freedom of association of children and young persons; (b) revamping Children's Rights Forum and setting up an independent statutory body to handle matters relating to children's rights; (c) setting up a "Children and Young Persons Council" to protect the expression of views of children and young persons; and (d) encouraging schools to set up self-governing student associations to safeguard students' right to participate in school administration.

Rainbow Action

18. Mr Jimmy SHAM said that in 2005, the Court of Appeal had ruled that section 118C of the Crimes Ordinance (Cap. 200) in relation to committing an act of gross indecency with or by man under 21 were unconstitutional. He requested the Administration to take action to amend the relevant provisions and to confirm whether any person aged between 16 and 18 had been arrested under that provision after the Court's ruling in 2005.

Transgender Group

19. Miss Angel TSANG Hon-wai sought information from the Administration on: (a) the annual number of birth relating to babies identified to be bisexual; (b) how the Administration determined the sex of a baby when he or she was identified to be bisexual and how the Administration handled the related matters; and (c) whether a child was allowed to change the "sex category" on his or her identity card and birth certificate when this child reached the age of 11 and found that his or her psychological gender was different from his or her sex identified at birth. She further called on the Administration to promote sex education in relation to bisexual children.

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Women Coalition for HKSAR
[LC Paper No. CB(2)838/12-13(06)]

20. Miss Wai Wai highlighted the discrimination faced by homosexual students in schools, which included bullying by students, punishment by teachers and being forced to leave school. According to the 2012 survey conducted by Women Coalition of HKSAR concerning discrimination against women based on their sexual orientation, about 31% of the respondents indicated that they had been subjected to discrimination in school. She called on the Administration to enact legislation to prohibit discrimination on the basis of sexual orientation.

Hong Kong Committee for UNICEF
[LC Paper No. CB(2)838/12-13(07)]

21. Ms Sofia FUNG expressed disappointment with the slow progress of promoting CRC to both adults and children by the Administration. She was concerned that professionals of child care as well as children and parents had limited understanding of CRC. She also raised concern about the absence of a holistic and systematic approach to monitor the implementation of CRC in Hong Kong, and urged the Administration to devise a long-term strategy to promote children's rights. She further suggested the establishment of a Children's Commission.

UNICEF Voices of Youth
[LC Paper No. CB(2)838/12-13(08)]

22. Miss Anita LO Ying-ying said that although the Administration had stepped up measures to protect children from abuse and neglect, such measures only targeted physical abuse of children but left out those related to emotional harm, such as emotional and language abuse. She cautioned about the negative impact of emotional abuse on children's sense of self-esteem. She suggested the Administration to conduct a survey on children's mental health in Hong Kong. She further called on the Administration to integrate children's rights education in its campaign of community and family education.

Kid's Dream
[LC Paper No. CB(2)838/12-13(09)]

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23. Miss Dorothy LUI said that there was a lack of support for children with specific learning difficulties ("SpLD"). According to a survey in 2009, the prevalence of children with SpLD was as high as 9.7% to 12.6%, much higher than 0.6% as stated in table 21(c) in HKSAR's second report under CRC. There was also a shortage of teachers who had the professional knowledge to identify and take care of children with SpLD. In this connection, she urged the Administration to address the problem of lack of relevant training provided to teachers. Miss LUI further said that there was a serious shortage of psychiatrists and psychologists in Hospital Authority ("HA"). Needy children had to wait for an average of nine months to three years for psychiatric treatment. To address the problem, the Administration should consider recruitment of overseas specialists and provision of subsidies for parents to seek private psychiatric treatment.

Mr Henry LEUNG

[LC Paper No. CB(2)838/12-13(10)]

24. Mr Henry LEUNG emphasized the importance of respecting the views of children. He considered the Administration's efforts in consulting the views of children ineffective as it always failed to provide a child-friendly version of its consultation papers to help children understand the content. He also expressed the view that the Children's Rights Forum did not live up to expectations because it did not convene meetings on a regular basis to discuss concerns of children and the Forum was not open to all children. He further raised concern about children in poverty and called on the Administration to establish a Children Advisory Committee under the Commission on Poverty, with a view to soliciting the views of children and understanding their needs.

Miss LI Cheuk-ying

[LC Paper No. CB(2)838/12-13(11)]

25. Miss LI Cheuk-ying called on the Administration to set up a Children's Commission as soon as possible by making reference to those set up in overseas jurisdictions, adding that that the number of Hong Kong children had exceeded 1.10 million, representing about one-sixth of Hong Kong population. She considered that the Commission could serve as a platform for consultation of children's views on policies and programmes affecting them.

Hong Kong Society for the Protection of Children

26. Mr MAK Kang-ying made a number of suggestions regarding provision of support for parents in looking after their families, including: (a)

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strengthening measures to identify and support high-risk families, given that a study in 2008 revealed that about 18% of families with young children were high-risk; (b) improving child care services for double-income families, in particular those provided by professional whole-day child care centres; and (c) enhancing the Neighbourhood Support Child Care Project. He also urged the Administration to actively consider the establishment of a Children's Commission.

Hong Kong Committee on Children's Rights
[LC Paper No. CB(2)838/12-13(12)]

27. Mrs Priscilla LUI stressed the importance of setting up a Child Commission for the promotion of children's rights and the implementation of CRC in Hong Kong. She informed members that the State Council of the People's Republic of China had announced on 1 July 2011 a 10-year Women and Children Development Blueprint to ensure the best interest of the child in policies and practices. In 2007, a motion concerning "Commission on Children" was also passed by LegCo. However, the Administration still had not set up a dedicated committee responsible for the promotion of children's rights and policies on children development.

Ms Eliza C Y CHAN
[LC Paper No. CB(2)838/12-13(13)]

28. Ms Eliza CHAN made a number of suggestions as detailed in her submission, which included: (a) establishing a Children's Commission to coordinate the efforts of the Administration in formulating policies relating to children's rights and ensure that the perspective of children's rights were fully taken into account; (b) opening up the market of free television programme service licences so as to widen the choice of children's programme; (c) implementing measures to control dissemination of indecent information on the internet; and (d) allocating additional resources to meet the education needs of gifted students.

Ms Billy WONG
[LC Paper No. CB(2)838/12-13(14)]

29. Ms Billy WONG pointed out that the UN Committee had issued a List of Issues in connection with its consideration of the HKSAR's Second Report under CRC and requested the Administration to submit its responses in writing before 1 July 2013. One of the issues raised by the UN Committee was that the Administration should explain for its delay in the establishment of

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an independent Children's Commission in HKSAR. She said that "the 1.1 Million Children's Campaign" would be launched to lobby the Administration for setting up a Children's Commission in Hong Kong.

Playright Children's Play Association
[LC Paper No. CB(2)838/12-13(15)]

30. Ms Kathy WONG said that the UN Committee had announced on 1 February 2013 the adoption of a "General Comment" to uphold the importance of Article 31 of CRC, which stipulated the right of the child to rest, leisure, play, recreational activities, cultural life and the arts. She also expressed the following concerns in connection with Article 31 of CRC, which included: (a) Hong Kong needed provision of quality playable space in the community such as open space and natural environments; (b) children needed to play in school and in hospital; (c) the provision of inclusive playground in public parks should be improved to cater for children with special needs; and (d) expanding the provision of "Toy Library" to as many districts as possible.

Forthright Caucus
[LC Paper No. CB(2)838/12-13(16)]

31. Ms Ah Yin pointed out that there was a lack of support measures for children who suffered from family violence in the areas of psychological assessment, family services and community support. She said that the Administration failed to put in place effective measures to secure the recovery of maintenance payments for children. Furthermore, she expressed strong dissatisfaction with the Administration's failure to provide appropriate and equal opportunities for children from low-income families to fully participate in cultural, artistic, recreational and leisure activities.

Hong Kong Unison
[LC Paper No. CB(2)838/12-13(17)]

32. Ms Fermi WONG Wai-fun expressed concern about the education for ethnic minority children. She pointed out that the existing education policy failed to help these children develop their fullest potentials. Every year, only less than 1% of ethnic minority students were admitted into publicly-funded degree programmes. She also said that in the absence of a coherent and effective Chinese Language education policy, many ethnic minority children were left unable to write and read Chinese well enough to pursue further education or seek employment. She called for the implementation of a

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"Chinese as a Second Language" curriculum, adding that Hong Kong Unison's advocacy for such a curriculum was not based on the view that minority languages in Hong Kong should not be protected.

33. Members also noted the written submissions provided by organizations/individuals not attending the meeting [LC Paper Nos. CB(2)782/12-13(06) and CB(2)797/12-13(03)].

Discussion

Setting up of a Children's Commission

34. Mr LEE Cheuk-yan and Mr LEUNG Kwok-hung shared the view of the deputations on the need to set up a Children's Commission for the promotion and protection of children's rights in Hong Kong. In view of the Administration's explanation that it did not see the need to set up a Children's Commission as the Family Council already provided a platform for deliberation of child-related issues, Ms Emily LAU asked the deputations whether they had participated in the work of the Family Council and, if so, whether they agreed to the Administration's view.

35. Ms Billy WONG said that she was also a member of the Alliance for Children's Commission, which had written to the Family Council requesting a meeting with it but had received no response. She informed members that according to some members of the Family Council, the Family Council rarely discussed issues relating to children's rights at its meetings. Those members had even requested the Alliance to pressurize the Family Council to include child-related issues for discussion at its meetings.

36. Sharing her experience in pursuing the establishment of the Women's Commission, Dr Helena WONG considered that the proposed Children's Commission, if set up, should be made truly independent in order to ensure that it would function effectively.

37. Dr Fernando CHEUNG expressed disappointment with the Administration's failure to establish a Children's Commission, and pointed out that back in 2007, a motion on "Commission on Children" had been passed by LegCo with the support of Members belonging to different political parties and affiliations. He shared the concern of deputations about the educational needs of vulnerable children, including children with physical disabilities, ethnic minority children, children from single-parent or new arrival families and children in poverty. He also expressed dissatisfaction with the

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Administration's failure to formulate a policy for the child or implement a comprehensive plan of action for the implementation of CRC. He requested the Administration to explain how it would ensure the allocation of adequate resources and enactment of necessary legislation to safeguard the rights of children in Hong Kong in the absence of a Children's Commission.

38. Ms Cyd HO echoed Dr CHEUNG's view and pointed out that a Children's Commission would adopt the perspective of children's rights in the deliberation of child-related issues. She expressed concern about the problem of children suicide and the occurrence of numerous cases of children being killed by their parents who committed suicide. She urged the Administration to protect children's right to life and devise measures to prevent recurrence of similar incidents.

39. Dr Priscilla LEUNG considered it important to also take into account the views of parents in the deliberations of children's rights and issues. She pointed out that many parents intended to protect their children but they had difficulties in communicating with their children and in eliminating misunderstanding between them and their children.

40. USCMA advised that the Administration had considered the proposal for the establishment of a Children's Commission, and had come to the view that the Family Council was a more suitable platform for deliberation of issues related to children's rights so that such issues could be considered in the wider context of family-related policies and issues. It was the Administration's view that the Family Council was able to provide a platform for deliberation of child-related issues which straddled various policy areas. As such, the operation of the existing mechanism was largely satisfactory and there was no need to set up a Children's Commission. USCMA said that he would relay some deputations' comments on the Children's Rights Forum to the Forum to seek improvements such as in setting its agendas and in enhancing its representativeness.

Children in poverty and educational needs of vulnerable children

41. Mr LEE Cheuk-yan elaborated on the difficulties faced by children whose parents were two-way permit holders. As these parents failed to meet the seven-year residence requirement, they were not eligible to apply for the Comprehensive Social Security Assistance ("CSSA") and they often lived on the CSSA payments granted to their children. Furthermore, if the children of these families were under the age of 18, these families were not eligible to

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apply for public housing because the parents were non-resident who stayed in Hong Kong on a two-way permit. He urged the Administration to take measures to address the hardship faced by these children.

42. Ms Cyd HO expressed concern that the Administration had been overlooking the development needs of refugee children. She pointed out that of the 65 refugee children in Hong Kong, seven were being left alone with no parents or family members. She also called on the Administration to ensure that children born to foreign domestic helpers in Hong Kong would not be deprived of education opportunities, adding that states parties of CRC were obliged to safeguard the right of children to education irrespective of the status of abode of the children concerned.

43. Dr Helena WONG urged the Administration to provide 15-year free education as undertaken by the Chief Executive in his election manifesto. She criticized the Administration for delaying the introduction of free pre-primary education in Hong Kong in the excuse that a committee should be set up first to examine the feasibility of free pre-primary education.

44. Mr IP Kin-yuen pointed out that as outlined in HKSAR's second report, the Administration would ensure that the education system provided an enabling environment for children to achieve social mobility. However, he considered that the existing education system ran contrary to expectations and indeed exacerbated the widening gap between the rich and the poor, resulting in a situation where the poor getting poorer and the rich getting richer across generations. He explained that children from grass-roots families were at a disadvantage under the different levels (from pre-primary to university education) of the existing education system. For primary and secondary education, these children could not gain access to direct subsidy schools due to high school fees. Furthermore, recent surveys had found that the admission rate of children from grass-roots families to universities was much lower than that of well-off children. He urged the Administration to allocate additional resources to promote development of children from grass-roots families and enable upward mobility in the community.

45. Mr Dennis KWOK commended on the efforts of Kids' Dream in putting together a comprehensive "Children's Report to the UN Committee on the Rights of the Child under CRC". He requested the representative of Kids' Dream to elaborate their views on tackling the education problems faced by children with SpLD in mainstream schools.

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46. Miss Dorothy LUI responded that, according to some studies, some 30% of secondary school teachers and some 70% of primary school teachers had not received any training on integrated education. On provision of training for teachers, the only formal training on integrated education for pre-service teachers was provided by Hong Kong Institute of Education. The integrated education programmes offered by the Administration for in-service teachers did not serve the purpose as teaching hours were limited and participation in these programmes was not compulsory. She reiterated the recommendations of Kids' Dream that the Administration should take measures to identify children with SpLD, strengthen its support for teachers, and promote public awareness of the education needs of children with SpLD with a view to eliminating discrimination against them.

47. Dr Helena WONG said that both parents and teachers faced immense pressure in providing education for children with SpLD, as parents found it hard to identify a school well equipped to provide integrated education for their children, and teachers needed to constantly work overtime to handle the additional workload in teaching these children. Mr LEUNG Kwok-hung called on the Administration to promptly handle the long-delayed reprovisioning of SAHK Ko Fook Iu Memorial School.

48. USCMA advised that in the current term Government, the Commission on Poverty had been set up again and it had discussed the subject of poverty line at its first meeting. The Administration considered that the establishment of a poverty line would help address the problem of intergenerational poverty. USCMA further said that to encourage development of children, the Child Development Fund ("CDF") with a funding of \$300 million was established in April 2008. It was currently supporting some 40 pioneer projects aimed to benefit children with disabilities, ethnic minority children and children in poverty. The Administration would review the work of CDF and consult members of the relevant Panel in 2013.

49. In response to some deputations' concern about the difficulties of non-Chinese speaking ("NCS") students in learning the Chinese language, Principal Assistant Secretary (Curriculum Development of the Education Bureau) ("PAS(CD/EDB)") advised that the Administration had issued the "Supplementary Guide to the Chinese Language Curriculum for NCS Students" ("the Supplementary Guide") in 2008 to cater for the diverse needs of NCS students. The Supplementary Guide included four curriculum modes, namely "immersion in Chinese Language lessons", "bridging/transition", "specific learning purposes" and "integration". Teaching and learning

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materials were provided alongside the Supplementary Guide which included textbooks covering different learning stages of the primary and secondary levels, and specific teaching guides for teachers to assess the learning abilities of NCS students. Furthermore, training support for teachers had been extended to cover teachers from more than 100 schools. He stressed that the learning and teaching advocated by the Supplementary Guide was not designed to be of lower standard than the Chinese Language curriculum under Hong Kong Diploma of Secondary Education ("HKDSE").

50. PAS(CD/EDB) also highlighted the multiple pathways for NCS students to obtain Chinese Language qualifications, such as by sitting for the Chinese Language examination under HKDSE, or those Chinese Language examinations offered by the General Certificate of Secondary Education ("GCSE") and International General Certificate of Secondary Education. The Administration had also extended the ambit of the Examination Fee Remission Scheme to cover GCSE (Chinese) Examination enabling eligible NCS students to receive full or half fee remission of the examination fee. In addition, the results of GCSE (Chinese) Examination were accepted as an alternative Chinese Language qualification for consideration for admission to the University Grants Committee-funded institutions. He further pointed out that there were many successful cases proving that NCS students were capable of learning Chinese language under the existing curriculum. He stressed that to a certain extent, these multiple and flexible modes in the curriculum were already working on the basis of offering an alternative Chinese Language learning experience for NCS students.

Right of the child to be protected from employment exploitation

51. Referring to Article 32 of CRC which stated that "states parties recognizes the right of the child to be protected from economic exploitation and from performing any work that was likely to be hazardous or to interfere with the child's education...", Mr LEE Cheuk-yan requested the Administration to regulate the working hours of children aged between 15 and 18 working in the non-industrial sector in the same way as what had been done to their counterparts working in the industrial sector. He did not subscribe to the view of the Administration that work in the industrial sector was harder and more labour intensive than that in the non-industrial sector. He opposed the Administration's position that only the working hours of children aged between 15 to 18 working in the industrial sector should be regulated.

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Concern about section 118 of the Crimes Ordinance

52. Responding to the concern of some deputations on the unconstitutionality of section 118C of the Crimes Ordinance, Senior Assistant Solicitor General confirmed that the Court had ruled that the relevant provisions of the Crimes Ordinance were unconstitutional and of no effect. He understood that Security Bureau was following up on the amendment of these provisions with a view to repealing the parts that had been ruled unconstitutional.

IV. Voter registration in 2013

[LC Paper Nos. CB(2)768/12-13(02) and CB(2)782/12-13(07)]

53. At the invitation of the Chairman, USCMA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)768/12-13(02)]. Members noted the updated background brief prepared by the LegCo Secretariat on this item [LC Paper No. CB(2)782/12-13(07)].

Discussion

Investigations into cases relating to the 2011 DC election

54. Referring to paragraph 5 of the Administration's paper, Ms Emily LAU requested the Administration to provide details of the investigation results on the suspected vote-rigging cases arising from the 2011 DC Election. Chief Electoral Officer ("CEO") said that after the 2011 DC Election, the Registration and Electoral Office ("REO") had followed up on over 9 000 electors in response to the complaints received. REO had subsequently referred cases involving about 2 000 electors to the law enforcement agencies for investigation. The Police and the Independent Commission Against Corruption ("ICAC") had conducted investigation into complaint cases involving about 3 000 electors and 8 000 electors respectively. Following investigation, prosecution had so far been taken in a total of 62 cases resulting in convictions of 52 electors. Meanwhile, eight cases were still under investigation by ICAC. CEO said that the results revealed that there was no evidence of the so-called "vote-rigging" in more than 90% of the cases. The inaccuracies detected in most cases were due to the failure of electors to provide an updated registered address in a timely manner after moving home. In response to Ms LAU's question regarding the penalties imposed, CEO said that he would obtain the requisite information from the law enforcement agencies for members' information.

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Checking measures implemented by REO

55. Ms Emily LAU asked what checking measures were taken concerning addresses in buildings already demolished or to be demolished. CEO said that REO regularly obtained lists of recently demolished buildings or buildings vacated pending demolition from the departments concerned (such as the Buildings Department and the Rating and Valuation Department), based on which REO would identify electors who might not have updated their residential addresses and issue inquiry letters to the electors concerned according to the statutory inquiry process. If the electors concerned did not reply by the specified deadline, their names would be included in the omissions list and subsequently removed from the final registers.

56. Referring to the checking measures adopted in the 2012 Voter Registration ("VR") cycle as set out in paragraph 11(a)-(g) of the Administration's paper, Ms Cyd HO requested detailed information of the cases involved, including the numbers of checks on new VR applications with multiple applicants using the same address for registration, random sample checks on existing electors, and checks on addresses with incomplete information, commercial addresses or suspected non-residential addresses. In respect of checks on addresses in buildings already demolished or to be demolished, Ms HO asked about the numbers of electors and buildings involved, and how long the buildings concerned had been demolished. Due to time constraint, the Chairman requested CEO to provide the requisite information in writing.

Admin

(Post-meeting note: The supplementary information provided by REO was issued to members vide LC Paper No. CB(2)975/12-13(01) on 15 April 2013.)

57. Ms Cyd HO further asked whether the checks on new VR applications with multiple applicants using the same address for registration would become a standing arrangement applicable to all new applications or conducted only on a random basis. CEO advised that REO would continue the checking on multiple electors or multiple surnames of electors at one registered residential address, which would cover suspected VR applications if identified.

58. Dr Priscilla LEUNG expressed concern about the removal of some 217 000 electors' names from the final registers of electors for 2012. Mr Paul TSE said that the removal of some 217 000 electors from the final registers out of a total of 296 000 electors who had received inquiry letters from REO (i.e. 73%) might reflect that the enhanced checking measures

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adopted by REO were over-stringent. Ms Cyd HO said she noted that some electors had difficulty to provide any utility bill as proof of address because they were not the property owners. As a result, these electors had been removed from the registers of electors. She asked about the number of such cases, and suggested that REO should put in place a mechanism to consider appeals lodged by electors against the results of their claims for reinstatement of registration.

59. CEO stressed that REO had strictly followed the relevant statutory procedures in the implementation of the checking measures. In fact, each of electors concerned had been issued two to three checking/inquiry/reminder letters from REO before they were removed from the final register in the 2012 VR cycle in accordance with the relevant electoral legislation. CEO said that as an additional measure, REO had sent reminder letters in mid-June 2012 to some 231 000 electors who had been included on the omissions list to remind them either to make a claim or to update/confirm their residential addresses by the statutory deadline on 29 June 2012. Regarding the provision of address proof, while the requirement had been strictly enforced in the light of the public's concern on the accuracy of the residential addresses recorded in the registers of electors following the 2011 DC Election, it had been adjusted afterwards with greater flexibility exercised in the light of operational experience. CEO explained that for an elector who had difficulty to provide address proof, provision of a declaration with address proof of another inhabitant who resided at the same address would also be accepted as valid proof, and in some situations, REO would also accept a reply letter from the elector concerned. He said that REO had endeavored to strike a balance between upholding the accuracy and integrity of the VR system and safeguarding a person's voting right as far as possible.

60. Regarding the letters issued by REO requesting registered electors to update/confirm their addresses, the Chairman said that the wording of the letters was too legalistic and he noted that some electors had difficulty in understanding the content and simply chose not to respond. The Chairman suggested that simpler wording should be used.

61. In response to Dr Kenneth CHAN's enquiry about the scale of checking conducted in the 2013 VR cycle and the resources devoted to such work, CEO said that the scale of checking in 2013 which was a non-election year would be smaller than the previous year, but it was expected that not less than 80 000 electors would be checked in 2013.

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Interpretation of "ordinary resident in Hong Kong"

62. Dr Priscilla LEUNG requested the Administration to clarify the voting eligibility of Hong Kong permanent residents who had retired outside Hong Kong or moved to the Mainland but commuted to Hong Kong to work or for schooling, and these people did not have a residential address in Hong Kong. USCMA advised that regarding the VR requirements for Hong Kong permanent residents who resided on the Mainland or overseas, the main considerations included whether the person concerned was able to provide a genuine address as his/her principal residential address for VR purpose, and to show he had an intention to settle in Hong Kong and maintained a close connection with Hong Kong during the period of absence. REO would consider each application on a case by case basis and seek legal advice, if necessary.

Functional Constituencies electors

63. Noting that in the LegCo elections in 2008 and 2012, the number of reminder letters issued by REO to Functional Constituencies ("FCs") electors who might have been disqualified from voting had increased from 465 to 1 120 respectively which was almost a three-fold increase, and that the number of such letters issued to electors in the Information Technology ("IT") FC in 2012 LegCo Election had substantially increased from zero in 2008 to 448 (i.e. 6.7% of the electorate of IT FC), Mr Charles Peter MOK expressed concern about accuracy of the membership information supplied by the specified bodies concerned. He urged REO to take more proactive checking measures to verify the eligibility of FC electors. He considered the measures set out in paragraphs 12 to 14 of the Administration's paper inadequate as they were mainly about reminding or giving advice by ICAC to individual specified bodies regarding proper membership administration.

64. CEO explained that the eligibility of registration for FCs was tied to membership in bodies specified under the LegCo Ordinance (Cap. 542) ("LCO"). In compiling the final registers of FC electors before a LegCo election was held, REO would request the specified bodies/institutions to provide updated information of their members/employees to REO pursuant to LCO. Based on the information received, REO would check the electors' information in the existing register and process the VR applications. In the registration cycle preceding the 2012 LegCo Election, REO had written to the relevant bodies to collect the latest information on existing electors and eligible persons or organizations for registration for their respective FCs. CEO noted that there were also situations where an elector might be eligible

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for registration on account of his membership of more than one specified bodies. He explained that under the existing arrangement, if after the publication of the final registers, REO received new information from a specified body/institution regarding changes in membership/employment status of a registered elector, REO would issue a letter to the relevant elector reminding him not to vote in the election if he had lost his eligibility for registration. Mr Charles Peter MOK, however, considered that the figures he had cited revealed that the existing checking measures were inadequate and urged the Administration to enhance its checking measures such as strengthening the random checks.

65. Dr Kenneth CHAN also expressed doubt about the effectiveness of the new visit-cum-advisory service programme by ICAC as it was purely advisory and its recommendations were not binding. CEO said that under the new programme, ICAC would proactively offer advisory service to individual specified bodies to help review and enhance their membership administration, ensure procedural compliance and enhance transparency. CEO explained that these specified bodies were formed and operated in accordance with their constitutions or the relevant governing legislation. Membership administration was essentially a matter of corporate governance of the specified bodies concerned. CEO pointed out that not only would it be a criminal offence to provide false or incorrect information to REO for the purpose of VR, from the perspective of corruption prevention, ICAC also considered it desirable to remind the concerned specified bodies of the importance of good governance. Against this background, ICAC agreed that efforts should be made to remind the specified bodies of the importance of good governance, including maintaining a proper and transparent membership administration system. USCMA added that the visit-cum-advisory service programme was intended to help address various concerns about the registers of FC electors with a view to ensuring the accuracy of the VR records.

66. Mr IP Kin-yuen expressed concern that the eligibility for registration as electors of the Education FC and voters of the Higher Education Subsector of the Election Committee was unclear, and some teaching staff members of institutions of higher education also felt confused. CEO advised that the eligibility of registration for the Education FC was clearly set out in Section 20E of LCO. It was specified that full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in the institutions listed in Section 20E were eligible to be registered as electors of the Education FC. CMAB had also published a press statement in 2011 confirming that the full-time academic staff engaged in teaching or research

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and administrative staff of equivalent rank in those continuing education institutes or community colleges should, for the purpose of VR, be regarded as the staff of the respective institutions, and were eligible for registration as voters in the Higher Education Subsector. In compiling the registers of electors, REO would request these institutions to provide updated information of their teaching or research and administrative staff of equivalent rank. The relevant institutions/members of the sector were welcome to make enquiries with REO when in doubt.

67. Dr LAM Tai-fai asked whether the Administration would consider broadening the electorate base of traditional FCs in order to enhance representativeness of the Members returned for the relevant FCs. Taking the Industrial (Second) FC as an example, Dr LAM suggested that companies and enterprises registered under the Business Registration Ordinance (Cap. 310) or issued with a Certificate of Incorporation should also be eligible electors. USCMA said that the Administration would consider the suggestion.

Election petition

68. With reference to the court case of *Chong Wing Fai Winfield v Cheung Kwok Kwan and Another* (HCAL10/2012) where it was ruled that there was no provision to bar or disqualify an elector from voting even though he had moved to a new address without informing REO, Mr Paul TSE asked whether the judgment would have any implication on the existing VR policy. Deputy Secretary for Constitutional and Mainland Affairs said that the judgment was not expected to have any implications on the existing policy or the VR work. However, the Administration would strengthen publicity efforts in the 2013 VR cycle to encourage timely updating of registered particulars so that REO could update and keep the relevant registers of electors most accurate and up-to-date at any time.

V. Any other business

69. There being no other business, the meeting ended at 5:25 pm.