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Panel on Constitutional Affairs

Updated background brief prepared by Legislative Council Secretariat for the meeting on 18 November 2013

Second Report of Hong Kong Special Administrative Region under Convention on the Rights of the Child

Purpose

This paper gives an account of the discussions of the Panel on Home Affairs ("the HA Panel") on the first report submitted by the Hong Kong Special Administrative Region ("HKSAR") to the United Nations ("UN") under the Convention on the Rights of the Child ("CRC"), and the discussions of the Panel on Constitutional Affairs¹ ("the CA Panel") on the HKSAR's second report.

Background

2. The United Kingdom Government extended CRC to Hong Kong in 1994. The People's Republic of China ("PRC") is a State Party to CRC. The Government of PRC notified UN in June 1997 that CRC with certain reservations would continue to apply to HKSAR with effect from 1 July 1997. The declarations and reservations applicable to HKSAR are set out in **Appendix I**.

3. The reporting cycle of CRC is every five years or such other time as the UN Committee on the Rights of the Child ("the UN Committee") may determine. The first report of HKSAR under CRC was submitted to UN as part of the PRC's second report in June 2003. The UN Committee considered the HKSAR's first report under CRC on 19 and 20 September 2005, and issued its concluding observations on 30 September 2005. A point-by-point response provided by the Administration to the concluding observations was issued vide LC Paper No. CB(2)1011/05-06(01).

¹ With effect from the 2008-2009 legislative session, issues relating to human rights have been placed under the purview of the Panel on Constitutional Affairs.

4. The second report of HKSAR was submitted to UN in July 2010 as part of the combined third and fourth reports of PRC and was published by UN in May 2012. In May 2013, the UN Committee published a list of issues to be taken up in connection with the consideration of the second report. The Administration's written response to the list of issues was issued vide LC Paper No. CB(2)1814/12-13(01).

Major issues raised by the HA Panel on the first report of HKSAR

5. The HA Panel discussed the first report of HKSAR under CRC with the Administration and deputations at its meetings on 11 June 2004 and 20 July 2005. At its meetings on 8 November 2005 and 10 February 2006, the HA Panel discussed the concluding observations on the first report of HKSAR and the Administration's response. Major issues raised by members at these meetings are summarized in paragraphs 6 to 15.

Setting up of a Commission on Children

6. Members noted that the UN Committee had recommended that an independent mechanism should be introduced to monitor the implementation of policy in relation to the rights of the child. Some members were of the view that a Commission on Children should be set up to promote children's rights and monitor the implementation of CRC, and this Commission should be a high-level and central mechanism. These members considered that as CRC covered various areas which were the responsibility of several bureaux, the existing institutional arrangement, i.e. with each policy bureau being responsible for assessing the impact of its policy decisions on children, was not effective in fostering children's rights. They suggested that the Administration should demonstrate its determination to implement CRC by, at least, issuing a Plan of Action for the implementation of the Convention in HKSAR once a year or once every two years.

7. The Administration informed the HA Panel that it might consider whether a Commission on Children should be set up or whether the Commission on Youth ("COY") should be changed into a Commission on Children and Youth, since there was some overlap in the defined ages of the youth and of the child. The Administration also advised that in addition to COY which targeted at persons aged between 15 and 24, the Administration had been sponsoring non-governmental organizations ("NGOs") of children's rights to organize programmes, e.g. the Child Ambassadors scheme and the Children's Council project to gauge children's views on issues relating to their rights. The newly established Children's Rights Forum also provided opportunities for exchanges of views between Government representatives and children's representatives.

8. Members advocating for the establishment of a Commission on Children stressed that the independent monitoring mechanism as proposed by the UN Committee 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. These members expressed strong objection to changing COY into a Commission on Children and Youth. They considered that the defined age of a child and that of an adolescent only overlapped between the ages of 15 and 18 and there was fundamental difference in their needs.

9. The Chief Executive ("CE") announced in his 2007-2008 Policy Address that a Family Council under the chairmanship of the Chief Secretary for Administration ("CS") would be set up to consider effective ways to deal with child development policies and related issues. The Administration had no plan to set up additional independent commissions for individual age or sex groups.

Children in poverty

10. Some members expressed concern about the substantial increase in the number of children on the Comprehensive Social Security Assistance ("CSSA") Scheme. They pointed out that many parents relied on their children's CSSA payment, because these parents did not meet the seven years' residence requirement. These members considered that the Administration should review such requirement for social security benefits as it would create problems to families of CSSA children. They further urged the Administration to allocate adequate resources to tackle child poverty.

11. The Administration explained that the increase in the number of CSSA recipients aged below 15 could be attributed to an increase in family cases involving mostly adult recipients, as well as children aged below 15. The Administration further informed the HA Panel that Government resources provided for programmes and services for the development of children and the youth amounted to about \$60 billion for the financial year 2004-2005, of which about \$15 billion was specifically reserved for children and the youth from disadvantaged families. On top of a social security safety net, families in need were provided with a wide range of support services. Needy families not receiving CSSA could apply for other assistance, such as child care fee assistance, student travel subsidy, school textbook assistance, school fee remission and medical fee waiver.

Legal protection of children and juveniles

12. Some members were of the view that the Administration should review the legislation in relation to protection of children, such as the Protection of

Children and Juveniles Ordinance (Cap. 213) which was far behind relevant legislation in some overseas jurisdictions. They considered that the Administration should also review the trial arrangements for juveniles and representation of children in courts. The Administration responded that a scheme to provide legal representation service for children and juveniles involved in care or protection proceedings had been introduced since October 2003.

Provision of education

13. Some members considered that children should be provided with 12 years' free and compulsory education up to Secondary Six. For children who had no right to stay in Hong Kong, the Administration should give an undertaking that for children pending arrangements for their removal, they should be guaranteed access to education in Hong Kong irrespective of the duration of their stay. These members stressed that it was unacceptable that their access to education would be subject to the discretion of the Director of Immigration by giving an indication of no objection to the education authorities.

14. The Administration pointed out that many overseas places had adopted nine years as a benchmark for providing free and compulsory education. It was the fundamental Government policy that no student would be deprived of education for lack of financial means. As regards provision of education for children who had no right to remain in Hong Kong, it was the Administration's position that in accordance with the law, people, including children, who had no right to remain in Hong Kong were subject to removal. However, the Administration recognized that there might be exceptional circumstances in individual cases that justified special consideration, e.g. where it was foreseen that the removal of the child was unlikely to take place for an extended period of time.

15. In response to the queries as to whether the Administration's failure to provide basic protection for the refugee and asylum seeking children in HKSAR was in breach of CRC and the rationale for not extending the application of the 1951 Convention Relating to the Status of Refugees to HKSAR, the Administration pointed out that according to a reservation relating to refugees and asylum seeking children which was applicable to HKSAR, provisions of CRC would not apply to persons who did not have the right of abode. However, assistance had been offered to refugees and asylum seeking children as far as possible.

Discussions of the CA Panel on the second report of HKSAR

16. In April 2009, the Constitutional and Mainland Affairs Bureau issued the outline of topics to be included in the second report of HKSAR for public consultation. The CA Panel discussed the outline of topics at its meeting on 20 April 2009, and received views from deputations on 18 May 2009. The HKSAR's second report was submitted to UN in July 2010. At its meeting on 18 March 2013, the Panel discussed the second report with the Administration and deputations. The major issues raised by members at these meetings are summarized in ensuing paragraphs.

Setting up of a Commission on Children

17. Some members expressed dissatisfaction that the outline of the HKSAR's report did not include any proposal of setting up a Commission on Children to protect and promote children's rights as recommended by the UN Committee in 2005. These members considered that the Family Council established in 2007 had not been entirely effective in protecting children's rights and that the rights of the child were basically different from the welfare of a family. They took the view that a family-oriented council would not accord priority to matters of child-related measures and children's rights. They reiterated that the Commission on Children advocated was a high-level and central mechanism which could not be substituted by the Family Council.

18. The Administration explained that the Family Council, under the chairmanship of CS, provided a platform for deliberation of child-related issues which straddled various policy areas including education, health, security, welfare, etc. Although certain child-related policies and measures might involve more than one bureau or departments, mechanisms were in place within the Government for co-ordinating and handling policies that involved different bureaux and departments. The Administration considered that under the existing arrangements, it had been able to respond flexibly to concerns and views expressed by different sectors of the community, including those from the perspective of children. The Administration considered that there was no need to establish a Commission on Children. At its meeting on 18 May 2009, the CA Panel passed a motion strongly condemning the Government for its refusal to set up a Commission on Children, and requesting it to do so immediately in order to implement CRC.

19. At the meeting on 18 March 2013, some members reiterated their dissatisfaction with the Administration's refusal to set up an independent Children's Commission. They queried how the Administration would ensure the allocation of adequate resources and enactment of necessary legislation to safeguard the rights of children in the absence of a Children's Commission.

The Administration reiterated that the Family Council provided a suitable platform for deliberation of issues related to children's rights. The Administration maintained the view that the operation of the existing mechanism was largely satisfactory and there was no need to set up a Children's Commission.

Corporal punishment and domestic violence against children

20. Some members were concerned about the UN Committee's observation about corporal punishment within the family which was not prohibited by law and that policies and programmes to assist child victims of violence were not fully effective. They requested the Administration to reflect in the HKSAR's second report the gravity of the problem by providing information on the numbers of corporal punishment and domestic violence cases handled and unresolved cases.

21. The Administration advised that in line with the Government's multi-disciplinary approach, the Police worked closely with other government departments and NGOs to safeguard the best interests of children. Relevant internal guidelines and training were provided to the frontline officers. Where children were required to give evidence in legal proceedings, special arrangements would be made to ensure that they would give evidence in a friendly environment. The Administration advised that the Domestic Violence (Amendment) Bill 2007 enacted in 2008 sought to enhance the protection for victims of domestic violence. The Social Welfare Department ("SWD") would monitor and review the effectiveness of the legislation in combating domestic violence and would continue to deploy resources to help needy families. Furthermore, the Family and Child Protective Services Units of SWD were tasked to address the needs of abused children and their families in a holistic manner and to work closely with other professionals on a multi-disciplinary basis to prevent recurrence of domestic violence.

Educational needs of vulnerable children

22. The CA Panel expressed concern about the lack of appropriate education services for children of ethnic minorities and called on the Administration to look into their educational needs. Members pointed out that these children were non-Chinese-speaking ("NCS") and when they were enrolled in public sector mainstream schools which adopted Chinese as the medium of instruction, they were marginalized and had difficulty in understanding the subjects and in catching up with school work.

23. Some members also expressed concern about the educational needs of other vulnerable children, including children with disabilities, children from

single-parent or new arrival families and children with specific learning difficulties. They were particularly concerned about recent surveys which had found that the admission rate of children from grass-roots families to universities was much lower than that of well-off children. They urged the Administration to allocate additional resources to promote the development of children from grass-roots families and enable upward mobility in the community.

24. The Administration advised that the Child Development Fund with a funding of \$300 million was currently supporting some 40 pioneer projects which aimed to benefit children with disabilities, ethnic minority children and children in poverty. The Administration also briefed members on a number of policy initiatives to address the difficulties encountered by NCS children in learning the Chinese Language in order to facilitate their integration into the society. Such measures included the issuing of the "Supplementary Guide to the Chinese Language Curriculum for NCS Students" in 2008 to cater for the diverse needs of NCS students and the provision of the relevant training for teachers from more than 100 schools.

Children in poverty

25. Members expressed concern that children from poor families did not have the resources to learn on equal footing with students of better-off families, e.g. they could not afford to pay for Internet access. Some members expressed dissatisfaction with the absence of a poverty line to facilitate policy formulation to assist needy children, and urged the Administration to provide 15-year free education to children across the board. The Administration undertook to take on board members' views and consider including the views in the second report of HKSAR.

26. Some members pointed out that some parents who were two-way permit holders lived on the CSSA payment granted to their children. If the children of these families were under the age of 18, these families were not eligible to apply for public housing because the parents failed to satisfy the seven-year residence rule for allocation of flats. These members called on the Administration to take measures to address the hardship faced by these children. The Administration advised that the current term Government had reinstated the Commission on Poverty, which was striving to set a poverty line to help address the problem of intergeneration poverty.

Recent development

27. The UN Committee considered the HKSAR's second report under CRC

on 26 and 27 September 2013 and issued its concluding observations on 4 October 2013. The CA Panel will discuss the concluding observations with deputations and the Administration at the next meeting on 18 November 2013.

Relevant motions/questions and papers

28. Members passed a motion at the Council meeting of 9 January 2002 urging the Government to expeditiously harmonize legislation and policies with CRC. Members also passed a motion at the Council meeting of 6 June 2007 urging the Government to set up a Commission on Children. Dr Hon Fernando CHEUNG will move a motion on setting up a Commission on Children at the Council meeting of 20 November 2013.

29. At the Council meetings of 26 June and 16 October 2013, Dr Hon Fernando CHEUNG and Hon Emily LAU raised a LegCo question on the promotion of rights of children and support for underprivileged children respectively. The Administration's replies to the questions are in **Appendix II**.

30. Details of questions relating to CRC raised at Council meetings since the Fourth Legislative Council ("LegCo") and relevant papers available on the LegCo website (<http://www.legco.gov.hk>) are in **Appendix III**.

Council Business Division 2
Legislative Council Secretariat
14 November 2013

APPLICATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD TO HONG KONG

On 10 June 1997, the Government of the People's Republic of China issued a letter to the United Nations Secretary-General and a number of diplomatic notes stating that the reservations and declarations entered by the Government of the People's Republic of China on its ratification of the Convention in 1992 are also applicable to the Hong Kong Special Administrative Region with effect from 1 July 1997. These reservations and declarations are:

1. The Government of the People's Republic of China, on behalf of the Hong Kong Special Administrative Region, interprets the Convention as applicable only following a live birth.

2. The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the Hong Kong Special Administrative Region of those who do not have the right under the laws of the Hong Kong Special Administrative Region to enter and remain in the Hong Kong Special Administrative Region, and to the acquisition and possession of residency as it may deem necessary from time to time.

3. The Government of the People's Republic of China interprets, on behalf of the Hong Kong Special Administrative Region, the references in the Convention to "parents" to mean only those persons who, under the laws of the Hong Kong Special Administrative Region, are treated as parents. This includes cases where the laws regard a child as having only one parent, for example where a child has been adopted by one person only and in certain cases where a child is conceived other than as a result of sexual intercourse by the woman who gives birth to it and she is treated as the only parent.

4. The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply Article 32(2)(b) of the Convention in so far as it might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments.

5. The Government of the People's Republic of China, on behalf of the Hong Kong Special Administrative Region, seeks to apply the Convention to the fullest extent to children seeking asylum in the Hong Kong Special Administrative Region except in so far as conditions and resources make full implementation impracticable. In particular, in relation to Article 22 of the Convention, the Government of the People's Republic of China reserves the right to continue to apply legislation in the Hong Kong Special Administrative Region governing the detention of children seeking refugee status, the determination of their status and their entry into, stay in and departure from the Hong Kong Special Administrative Region. (Note)

6. Where at any time there is a lack of suitable detention facilities, or where the mixing of adults and children is deemed to be mutually beneficial, the Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply Article 37(c) of the Convention in so far as those provisions require children who are detained to be accommodated separately from adults.

Note

The Permanent Representative of PRC to UN wrote on behalf of the Government of PRC to the Secretary-General of UN on 10 April 2003 informing him that the Government of PRC had decided to withdraw PRC's reservation with respect to article 22 of CRC as applied to HKSAR.

Appendix II

Press Releases

LCQ4: Promotion of rights and well-being of children

Following is a question by the Dr Hon Fernando Cheung and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam, in the Legislative Council today (June 26):

Question:

On June 8, 2007, this Council passed the following motion moved by me: "[t]hat this Council urges the Government to set up a Commission on Children to fulfill the obligations under the United Nations Convention on the Rights of the Child, safeguard the well-being of children, and ensure that children's perspectives are fully taken into account in the process of formulating government policies." However, the Government has not yet established a Commission on Children. In this connection, will the Government inform this Council:

(a) of the reasons why the Government has not yet established a Commission on Children, and whether it has assessed the complementing policies, legislation and resources needed for the establishment of the Commission;

(b) whether the Family Council and the Children's Rights Forum had taken measures in the past five years to promote the rights and well-being of children; if they had, of the details and the resources injected; if not, the reasons for that; of the respective measures taken by the two organisations to help children from groups with special needs (including poor families, single-parent families, families of new immigrants and ethnic minorities), children with disabilities, and children of different sexual orientations; whether the Government had introduced any special measures to improve the living environment of children from such groups with special needs (e.g. according priority to these children's families in the allocation of public housing or provision of rent allowance); if it had, of the details; if not; the reasons for that; and

(c) whether the Government currently has any measures to promote the rights and well-being of children as a whole; if it has, of a specific account of the objectives of the relevant measures, the effectiveness indicators, as well as the approach for evaluating the effectiveness of such measures; whether the Government has currently formulated a comprehensive child policy; if it has, of the details; if not, the reasons for that; given that the Government has required, since April 1 this year, bureaux/departments to include the assessment of family implications in all policy submissions and Legislative Council briefs, how such an assessment can address the distinctive needs of children?

Reply:

President,

The question raised by Member straddles across several policy areas. In consultation with the relevant policy bureaux, I hereby respond to Member's question on behalf of the Administration.

In the first place, the Administration considers that family is an important unit in society. We believe that children are best protected and nurtured within a loving family. Therefore, our policy is to preserve and strengthen cohesion within the family, use a family-based approach to provide the necessary care for children, and provide services to families in need. In accordance with the aforementioned policy objective, the Administration is all along committed to formulating policies which are conducive to the growth and development of children.

My response to the various parts of Member's question is as follows:

(a) Matters concerning the well being of children involve different policy areas. The relevant policy bureaux will undoubtedly handle matters under their respective purviews, such as formulating specific legislation for protecting the rights of children, and earmarking resources for implementing various policies. In case there are matters which involve a number of policy areas, policy bureaux will co-ordinate among themselves. We will also suitably co-ordinate and support through mechanisms such as the Policy Committee.

In the process of making decisions in relation to children, the relevant policy bureaux will take the "best interests of the child" as an essential and major factor of consideration. The implementation of various legislation and policies is also monitored by the Legislative Council, the Ombudsman, the media and the community at large.

As regards the collection of opinions when formulating policies relating to children, it is the current practice for policy bureaux to seek views from the relevant advisory bodies.

Furthermore, since its establishment in 2007, the Family Council has been striving to advocate the importance of family concept, and promote the use of family core values as the driving force for enhancing social harmony. Since April 1 this year, policy bureaux are required to include family perspectives when formulating policies for different age and gender sectors (including children). They are required to use the three sets of family core values (i.e., "love and care", "respect and responsibilities" and "communication and harmony") as identified by the Family Council, as well as the impact on family's structure and functions as the basis for assessing the effect of their policies on families. They are also required to consider consulting the Family Council on policies which will affect the family. We believe that such an arrangement will enable policy bureaux to formulate policies which could better suit the family-related needs of women, children, youths and elderly.

As regards the Children's Rights Forum established in 2005, it is a step further for providing a platform for non-government organisations, children and the Government to exchange views on children affairs.

To sum up, we consider that the current arrangement in handling children affairs is functioning well. It helps to provide us with flexibility in addressing the concern of various sectors on children matters, and is in line with our policy objective of strengthening the role of family. The Administration therefore is of the view that there is no imminent need to establish a Commission on Children.

(b) and (c) As stated in the preamble and part (a) of my reply, the Administration's work in handling matters relating to children's well being is not confined to those undertaken by the Family Council or the Children's Rights Forum only. It is implemented through various policy bureaux under an integrated approach. Considering the work of the Family Council, in the past five years, it has spent about \$76 million on promoting family core values, conducting research, family education and supportive work. This includes the launching of the two-year "Pilot Scheme on Family Mediation Service" in May 2012, which provides sponsorship to interested organisations to provide family mediation services to families with economic difficulties, with a view to assisting them in resolving family disputes and alleviating the negative impact on family members (especially children) arising from litigation. The Family Council has also discussed on items such as the comprehensive child development service, and the support for families with new arrivals from the Mainland.

Since its establishment, the Children's Rights Forum has discussed over 25 items. They include topics of close relevance to children, such as the legislation for implementing the "Joint Parental Responsibility Model". The Forum also encourages the participation of people coming

from different sectors (including children) who are interested in children affairs, and welcomes suggestions on discussion items.

We have also been implementing programmes such as the Children's Rights Education Funding Scheme and school outreach activities to promote children's rights. In 2013-14, we have allocated around \$2.15 million for the relevant programmes, which represents an increase of around 57 per cent as compared with the original estimate of last year. The relevant programmes are implemented by the Children's Rights Unit of the Constitutional and Mainland Affairs Bureau.

Apart from those programmes as discussed by the Family Council or the Children's Rights Forum, relevant policy bureaux have also been implementing extensive measures to enhance children's rights and well-being. Some examples are as follows:

In terms of financial support, the Comprehensive Social Security Assistance (CSSA) Scheme provides financial assistance, including rent allowance, to families in need. Single parents and family carers are provided with higher standard rates and additional supplement under the CSSA.

In terms of housing, the Social Welfare Department (SWD) will recommend families and individuals who are in need to the Housing Authority (HA) for its consideration of granting them fast track access to public rental housing (PRH). For divorced couples living in PRH units, the party which is granted custody of any children can continue to live in the public housing unit. If a disabled member of a family is certified to have special allocation need(s), the HA will endeavour to make corresponding allocation arrangements so far as resources permit. "Barrier-free" units will be offered to them as far as possible.

In terms of education, our student financial assistance policy ensures that no student will be denied access to education due to a lack of economic means.

In terms of social welfare, the SWD provides services to all citizens in need, including single-parent families and families with special needs. It also provides diversified and flexible childcare services, fee waivers or subsidies.

To address the needs of new-arrival children, the Education Bureau (EDB) arranges for direct admission for those between six and 15, and provides information on study paths for those who are aged 15 or above. The Home Affairs Department (HAD) also implements a series of programmes to assist new arrivals from the Mainland to integrate into the society.

Regarding ethnic minorities, the HAD has established support services centres to assist their integration with the society since 2009. The EDB also endeavours to assist non-Chinese speaking students to adapt to the local education system and learn Chinese. Measures include providing after-school extended Chinese learning for non-Chinese speaking students, etc.

To meet the needs of disabled children, the Administration provides relevant early intervention services to disabled children or children at risk of becoming disabled below the age of six.

To ensure that children with different sexual orientation will not be discriminated, guidelines have been formulated by the EDB to request textbook publishers not to include discriminative contents in their publications. The EDB will also remind schools of the need to avoid all kinds of discrimination when formulating their school-based policies and procedures. Topics on sexual orientation and the prevention of discrimination on the basis of sexual orientation are included in the curriculums of secondary and primary schools.

In future, the Administration will continue to promote children's rights and well being, for example:

(i) In terms of education, the EDB will continue to provide children with comprehensive school curriculum and other learning experience.

(ii) In terms of social welfare services, the SWD will continue to deliver comprehensive family and children welfare services under the direction of "child-centred, family-focused and community-based".

(iii) In terms of medical and healthcare, the Administration will develop the Centre of Excellence in Paediatrics to provide services for children with complex, serious and rare diseases.

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Press Releases

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LCQ3: Support to underprivileged children

Following is a question by Hon Emily Lau and a reply by the Secretary for Labour and Welfare, Mr Matthew Cheung Kin-chung, in the Legislative Council today (October 16):

Question:

The United Nations Committee on the Rights of the Child (the Committee) held a hearing on September 26 and 27 this year in Geneva to consider the report on the implementation of the United Nations Convention on the Rights of the Child (the Convention) by the Government of the Hong Kong Special Administrative Region (the SAR Government). I have learnt that the Committee was concerned about the situation of underprivileged children in Hong Kong, in particular, their being deprived of the right to receive education on the basis of equal opportunity as stipulated in Article 28 of the Convention; the Committee was also concerned about the problems encountered by children with disabilities, children of ethnic minorities and children in poverty, and it did not understand why the SAR Government, which has hoarded enormous resources, failed to enable these underprivileged children to enjoy equal right of education, rendering them lagging behind at the starting line. According to the Hong Kong Poverty Situation Report 2012 released on September 28 this year, the number of poor children aged zero to 17 in 2012 was 253 600. However, owing to the limitations of the survey design, the Report was unable to provide the number of poor children and their poverty situation in individual underprivileged groups, e.g. ethnic minorities and persons with disabilities. In this connection, will the Executive Authorities inform this Council:

- (a) when the authorities will conduct a detailed topical statistical survey, so as to grasp the number of different groups of underprivileged children (including children with disabilities, children of ethnic minorities and other groups of children) and their poverty situation;
- (b) of the authorities' new plans, funding proposals and arrangements to ensure equal opportunities for these children to receive education, so that their chances of pursuing studies and securing employment will not be affected; and
- (c) whether they will take on board the Committee's recommendation to set up an inter-departmental Commission on Children with concrete powers to monitor and promote the implementation of the Convention?

Reply:

President,

My reply to Hon Emily Lau's question is as follows:

- (a) To gain more in-depth knowledge of the population of ethnic minorities in Hong Kong, the Census and Statistics Department (C&SD) will conduct a special survey next year on ethnic minorities to collect more information on the characteristics of these households and to identify factors which may affect their earning capabilities. As for persons with disabilities, C&SD is currently conducting a special survey to gather data on the household income and other information of families comprising members with disabilities.
- (b) In accordance with Article 28 of the United Nations Convention on the Rights of the Child on children's right to education, we provide equal opportunities for all children in Hong Kong to receive education, including ethnic minority children and children with disabilities.

In respect of children of ethnic minorities, the Education Bureau

(EDB) has all along been encouraging the early integration of such children into the community. To remove the label of the so-called "designated schools", enhance non-Chinese speaking (NCS) students' learning effectiveness of the Chinese Language and widen NCS parents' school choices, EDB has revised the mode of support to schools. In the 2013/14 school year, EDB will provide subsidies to all public sector schools and Direct Subsidy Scheme schools admitting 10 or more NCS students. Schools will adopt the "Chinese Language Assessment Tools" to set appropriate learning targets for their NCS students with a view to helping them master the Chinese Language in a progressive manner and obtain different Chinese qualifications. EDB will consider the development of a more systematic Chinese Language curriculum framework and the launch of a subsidy scheme designed to enhance the professional capability of Chinese Language teachers in teaching Chinese as a second language.

For children with disabilities, the Disability Discrimination Ordinance ensures the rights of children with special education needs (SEN) to have equal opportunity in accessing education. The Code of Practice on Education provides schools with practical guidance on making provision for students with SEN. Currently, a dual track mode is adopted to cater for students with SEN. Students with more severe and/or multiple disabilities are, subject to parental consent, placed in special schools, while other students with SEN will receive education in ordinary schools. All students, including those with SEN, can enjoy free 12-year education under the same curriculum framework.

EDB has, from the 2013/14 school year onwards, raised the ceiling of the Learning Support Grant from \$1 million to \$1.5 million per annum for each ordinary school to support SEN students. EDB has also provided a one-off grant in March this year for special schools to procure assistive technology devices. We are also expanding progressively the school-based educational psychology service with a view to covering all public sector primary and secondary schools by the 2016/17 school year, and will continue to provide structured teacher training programmes.

In respect of the provision of pre-school rehabilitation services to children with disabilities from birth to six years old, the Government aims to enhance their physical, psychological and social developments, thereby improving their opportunities for participating in ordinary schools and daily life activities and helping their families meet their special needs. Over the past six years, funding to provide additional places for pre-school rehabilitation services has increased by 30%. The Community Care Fund has launched an assistance programme to provide training subsidy for pre-school children from low-income families who are in need of rehabilitation services. The ceiling of subsidy under the programme has been increased and the Social Welfare Department is considering incorporation of the programme into its regular subvented services.

(c) Matters concerning the well-being of children involve various policy areas. When formulating policies related to children, policy bureaux will co-ordinate among themselves and seek views from the relevant advisory bodies. In any case, the "best interests of the child" is of paramount concern for bureaux in determining policies related to children.

We firmly believe that children are best protected and nurtured within a loving family. Since its establishment in 2007, the Family Council has been striving to advocate the importance of family concept and promote the use of family core values as the driving force for enhancing social harmony. Since April 1 this year, policy bureaux are required to include family perspectives when formulating policies for different age and gender sectors (including children) and consider whether the policies would affect families.

As regards the Children's Rights Forum, it was established in 2005 to strengthen communication among the Government, non-governmental organisations and children on children's affairs. We will continue to strengthen collaboration between the Family Council and the Children's Rights Forum to listen to children's views in the process of assessing


family implications of different policy initiatives.

To sum up, we consider that the current arrangement in handling children's affairs is functioning well. It provides us with the flexibility to address the concerns of various sectors on children matters and is in line with the policy objective of strengthening the role of family. There is no imminent need to establish a Commission on Children.

Ends/Wednesday, October 16, 2013

Issued at HKT 13:03

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**Relevant documents on Second Report
of the Hong Kong Special Administrative Region
under Convention on the Rights of the Child
since the Fourth Legislative Council**

Committee/ Council meeting	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel")	20 April 2009 (Item VI)	Agenda Minutes
Legislative Council	13 May 2009	Official Record of Proceedings Pages 7 - 17 (Oral question raised by Hon Albert HO)
CA Panel	18 May 2009 (Item V)	Agenda Minutes
Legislative Council	24 February 2010	Official Record of Proceedings Pages 63 - 68 (Written question raised by Hon Emily LAU)
CA Panel	18 March 2013 (Item III)	Agenda Minutes
Legislative Council	26 June 2013	Official Record of Proceedings Pages 41 - 52 (Oral question raised by Dr Hon Fernando CHEUNG)
	16 October 2013	Official Record of Proceedings Pages 29 - 38 (Oral question raised by Hon Emily LAU)