IV. CIVIL RIGHTS AND FREEDOMS  
(Articles 7, 8, 13 to 17 and 37(a) of the Convention)

147. The fundamental civil rights and freedoms in Hong Kong for adult and children alike, including the freedom of expression, freedom of thought, conscience and religion, right to freedom of association and right of peaceful assembly, right to privacy, etc. continue to be protected under the Basic Law, the Hong Kong Bill of Rights Ordinance, and other relevant legislation.

A. Concluding observations – follow up

Article 37(a) - The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment

Corporal punishment

| Paragraphs 47 and 48 of the previous Concluding Observations (CRC/C/CHN/CO/2): |
| The Committee was concerned that corporal punishment within the family is not prohibited by law and continued to be practiced in the home in the HKSAR. It urged the State party, in all areas under its jurisdiction: |
| (a) to explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions; |
| (b) to expand public education and awareness-raising campaigns, with the involvement of children, on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment. |

148. As mentioned in paragraphs 137 to 138 of Part II of the Initial Report, corporal punishment is prohibited in schools (under Education Regulations (Cap. 279A)), correctional institutions, and childcare centres (under Child Care Services Regulations (Cap. 243A)).
Concerns were raised by the Committee as well as a number of commentators regarding corporal punishment within the family, and the lack of its explicit prohibition by law. We would like to clarify that while there is no prescribed provision under the existing law that prohibits corporal punishment inflicted by parents on their children, it does not mean that parents can use violence against their children. Pursuant to section 27(1) of the Offences Against the Persons Ordinance (Cap. 212), it is unlawful for a person aged over 16, including a parent, who has the custody, charge or care of a child or young person under the age of 16, to wilfully assault or ill-treat the child or young person, or causes such child or young person to be assaulted, ill-treated in a manner likely to cause such child or young person unnecessary suffering or injury to his health. If convicted, the person shall be liable to a maximum penalty of 10 years’ imprisonment. The number of persons convicted of such offence in 2005, 2006, 2007 and 2008 are 27, 27, 31 and 74 respectively. Persons inflicting corporal punishment may also be convicted of assault occasioning actual bodily harm or common assault respectively under sections 39 and 40 of the Offences Against the Persons Ordinance, and subject as such to a maximum penalty of one to three years’ imprisonment.

Non-violent forms of discipline

As to whether corporal punishment in the family that may not constitute criminal offences under the existing laws should be prohibited by law, we note that laws in other jurisdictions are developing, and the issue was proven to be a controversial one even in Western culture. We do not consider that legislation at this stage would be the most effective means of dealing with the issue in Hong Kong. Rather, public education and intervention by professionals are considered more effective. The SWD will continue to enhance public awareness of the importance of child protection and promote parenting skills through various public education initiatives. The SWD will also encourage parents to seek early assistance from professionals if needed, and avoid using violence in disciplining their children. Social workers will offer advice to parents and help them understand and adopt non-violent discipline. In 2008-09, the SWD rolled out a range of family education, publicity and community involvement programmes to
promote the values, ethics and individual responsibilities that are important for family harmony.

151. In this connection, in complementing the legal prohibition of corporal punishment in schools, schools are advised, in the School Administration Guide published by the EDB, to achieve good discipline through democratic means and to make use of praise and rewards to induce good behaviour. If disciplinary measures have to be taken in handling misbehaviour, punishment should be meaningful and educational. A monitoring system should be set up to ensure that punishment is not overused and that under all circumstances, school discipline should be administered in a manner consistent with the child’s human dignity and in conformity with the law. Besides, the EDB also advocates the whole school approach to school discipline work through the Guidelines on Student Discipline, which is accessible at the EDB’s website. Under this approach, schools are advised to involve teachers, parents and students in developing behaviour standards. To promote respectful and caring culture in schools, the EDB also supports NGOs in organising award schemes and producing resource packages for schools’ use.

B. Comprehensive programmes – monitoring

*Articles 7 and 8 - Name and nationality and preservation of identity*

152. The position regarding name and nationality and preservation of identity largely remains as explained respectively in paragraphs 79 to 90 of Part II the Initial Report.

153. We mentioned in paragraph 83 of Part II of the Initial Report that entries to the “Adopted Children Register” was directed by adoption orders of the Court. In September 2005, the Standing Committee of the National People’s Congress ratified the 1993 Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption (the Hague Convention) and applied it also to the HKSAR. On 1 January 2006, the Hague Convention came into force in the PRC (including the HKSAR). Amendments were made to
the Adoption Ordinance (Cap. 290) to give effect to the Hague Convention in the HKSAR. Henceforth, the Director of Social Welfare will, where appropriate, provide the necessary information to the Registrar of Births and Deaths to facilitate the registration of the adoption order granted overseas. Hence entries in the “Adopted Children Register” will be entered as directed by adoption orders of local Court or according to the information from the Director of Social Welfare for adoption order granted overseas as appropriate.

Article 13 - Freedom of expression

154. The position remains as explained in paragraphs 91 to 94 of Part II of the Initial Report. Furthermore, Article 39 of the Basic Law enshrines the provisions of the ICCPR as applied to Hong Kong.

Article 14 - Freedom of thought, conscience and religion

155. The position remains as explained in paragraphs 115 and 116 of Part II of the Initial Report.

Religious education in school

156. Some commentators were of the view that some schools run by religious organisations attempt to restrict the spare time activities of students on religious grounds, and require students to work on assignments of religious studies that are at odds with the students’ own religious belief. Specifically, they considered that schools run by religious organisations should notify parents of their right to withdraw their children from religious class.

157. Article 32 of the Basic Law of the HKSAR stipulates that Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public. At the same time, Article 137 states that “schools run by religious organisations may continue to provide religious education, including courses in religion”. Article 141 states that the Government of the HKSAR “shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organisations or restrict religious
activities which do not contravene the laws of the Region”.

158. The Government of the HKSAR adheres strictly to the provisions of the Basic Law to protect religious freedom of the child. Information on religious education provided by schools with or without religious background is widely accessible to the public, for example, through the Schools Profile published by the EDB, to inform parents before they select schools for their children. Parents could therefore make informed choices of sending their children to schools without religious education or with education of a particular religion. As stated in the Initial Report, children may also withdraw from religious education in school with the consent of their parents. Conversely, parents may request schools to provide opportunity for their children to observe religious rituals or to form religious base groups as appropriate.

Article 15 - Freedom of association and of peaceful assembly

159. The position remains as explained in paragraphs 117 to 120 of Part II of the Initial Report. The freedom of association and of peaceful assembly continues to be protected by the Basic Law. The Societies Ordinance (Cap. 151) and the Public Order Ordinance (Cap. 245) remain the principal legal instruments for the regulation of formation of societies, and public meetings and processions, respectively. In 2005-08, there were 12,239 public meetings and public processions. The Police exercised its power of objection and prohibition under the Public Order Ordinance on only three occasions (one involved objection to public procession while two involved both prohibition of public meeting and objection to public procession), all on the ground of public safety and public order or the protection of the rights and freedoms of others. Appeals were raised in respect of the three occasions. An independent appeal board upheld the Police’s decision in the case involving only objection to public procession; as regards the other two cases involving both prohibition of public meeting and objection to public procession, the appellant withdrew the appeal in one case while the Board allowed the event to be held with condition imposed in the other. See paragraph 183 below on the relevant statistics.
Article 16 - Protection of privacy

160. There are a number of measures to protect children’s privacy, as discussed in paragraphs 123 to 129 of Part II of the Initial Report.

Review of Personal Data (Privacy) Ordinance

161. The Administration, with support of the Privacy Commissioner for Personal Data, has conducted a comprehensive review on the Personal Data (Privacy) Ordinance (Cap. 486) to examine whether its existing provisions still afford adequate protection to personal data having regard to developments, including advancement in technology, in the last decade. As a number of proposed amendments to the Ordinance may have profound impact on various sectors of the community, public and private organisations as well as members of the public, we are seeking views from the community on the proposals through a public consultation exercise. Of these amendment proposals, a few would have implications on rights of children. These include:

(a) the proposal to empower a third party to give prescribed consent on behalf of a data subject to change the use of personal data, on condition that the data subject is incapable of giving prescribed consent as he does not have a sufficient understanding or intelligence to enable him to fully understand what is being proposed to him, and the proposed use of the personal data involves a clear benefit to the data subject. Data subjects most likely to be affected would include children;

(b) the proposal to permit a data user to refuse a request for access to personal data made by parents on behalf of a minor when compliance with the request is not in the minor’s best interests; and

(c) the proposal to allow data users to transfer personal data of a minor that are relevant to parental care and guardianship to the parents or guardian of the minor, to enable the latter
to better fulfil their responsibility to exercise proper care and guardianship of minors.

162. After the consultation, we will consolidate the views received. When we have general directions on the way forward, we will arrange for further public consultation on possible legislative proposals.

**Article 17 - Access to appropriate information**

Children’s programme on television

163. As explained in paragraph 95 of Part II of the Initial Report, the domestic free television programme service licensees are required under their licences to broadcast a minimum of two hours of children’s programmes daily on each of their channels and at prescribed times.

164. The Broadcasting Authority conducted a review of the domestic free television programme services in 2002. After taking into account the public opinions received during the review, the Authority recommended that the licences be renewed in 2003 subject to certain amendments. In relation to television programmes for children, out of the prevailing requirement of a minimum of 14 hours of children’s programmes per week on the English channels, the domestic free television programme service licensees are required to provide two hours of programmes per week with educational value targeting teenagers with the provision of English subtitling.

165. Some commentators suggested to revise the timetable for television programme for children and set up an advisory panel of educationalists and psychologists to advise on children’s programmes. At present, free-to-air television broadcasters are required to provide a minimum of two hours daily of children programmes between 9:00 am to 7:00 pm on each language channel. Besides, nothing unsuitable for children shall be broadcast between 4:00 pm to 8:30 pm. This serves to strike a balance to allow scheduling flexibility to cater for the needs

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4 "Children's programmes" are programmes designed specifically for children up to and including the age of 15.
of children as well as general viewing public and protect children viewers. Regarding the proposed advisory panel on children’s programmes, we consider that the editorial decision, freedom of expression and creativity of the licensees should be upheld and the regulator should not interfere in the matter.

Educational television programmes

166. We mentioned in paragraph 96 of Part II of the Initial Report that curriculum-based educational television programmes for primary and secondary schools students are produced for schools by Radio Television Hong Kong (RTHK) in collaboration with the EDB. Since 2003, programmes for students of pre-primary schools have also been produced.

167. Besides being broadcast through domestic free television stations, the educational television programmes are also available at eTVonline (www.eTVonline.tv), an online educational platform launched by RTHK in 2000 that offers entertainment content as well. The website also provides an on-demand archive of more than 4 800 programmes for review. Contents of special topics are also designed for all schools in Hong Kong for interactive teaching and learning.

Access to the Internet

168. Penetration of home computer and Internet access, particularly that for children, has further increased since the Initial Report. A survey conducted in July to September 2008 indicated more than 70% of the Hong Kong households had computer at home connected to the Internet. For primary and secondary school students aged 10 and above, over 97% have computer and Internet access at home.

169. The Government has actively facilitated computer/Internet access in public areas, including those visited by children. To that end, we have installed some 5 800 public computers with Internet access in various places, including public libraries and youth and social centres. They are available to the public free of charge. We have also launched the GovWiFi Programme to progressively install Wi-Fi facilities starting
from early 2008 at Government premises in different districts including public libraries, Public Enquiry Service Centres of the HAD, sports centres, cultural and recreational centres, job centres, community halls, large parks and Government joint-user buildings, to provide free wireless Internet access services to the general public. Furthermore, we commenced in early 2009 the pilot scheme of District Cyber Centres to provide computer hardware and software, Internet connections, training and content to children from low income families and other needy local residents in different districts.

170. Some commentators raised concern that some students are not able to afford having access to Internet to complete school work that require the use of online resources. The Government has launched various measures to support students from low income families in using computers and the Internet. For instance, we have granted recurrent subsidy to all primary and secondary schools to facilitate them to open up computer rooms for the students’ use after school. In addition, we launched two rounds of computer recycling programme in 2005 and 2009 respectively for needy students of primary and secondary schools. Under the programme, refurbished computers together with one-year free Internet access service are provided to eligible students from families in receipt of CSSA or financial assistance under the School Textbook Assistance Scheme. Moreover, we have negotiated with designated Internet service providers to offer the beneficiaries under the programme a favourable service plan for two further years after the initial year of free service.

171. The Government-established “HKEdCity.net” website, as mentioned in the Initial Report, continues to act as the largest one-stop professional educational portal in Hong Kong providing information, resources, interactive communities and on-line services for schools, teachers, students and parents to share views and experiences, and to promote the use of information technology in improving the effectiveness of learning and teaching.
Information security and online safety

172. Some commentators advocated strengthening safe cyber education and some expressed concern that children spend too much time in surfing the Internet. The Government attaches great importance to information security in the community, in particular the safety of youngsters when connecting to the Internet. We believe it is very important to help youngsters develop the proper attitude of using the computer and the Internet, as well as the appropriate conduct of behaviour and code of ethics. Since the start of 2008, relevant departments of the Government, in collaboration with some Information Technology security associations, have organised visits to schools in various districts. We have arranged more than 30 briefings and forums with more than 8,000 teachers and students participated. Through these events, we have introduced relevant Information Technology security knowledge and the proper attitude of using the Internet, as well as shared with them experiences of online safety and protection. We have also discussed the issue at the Children’s Rights Forum in July 2008.

173. We have launched a one-year territory-wide Internet education campaign, “Be NetWise”, in September 2009 to further promote the safe and healthy use of the Internet, targeting students of primary and junior secondary schools. It also aimed to help parents and teachers to acquire the knowledge and skill to provide guidance to their children and students on the use of Internet. The campaign included large-scale promotion events, roving exhibitions and training in districts, school talks, inter-school activities, telephone hotline support, home visit technical assistance, etc. covering a wide range of issues such as respect for personal data privacy and intellectual property rights, avoidance of Internet addiction, and information security. A sum of $63 million is allocated to the campaign. A number of NGOs, including the Hong Kong Federation of Youth Groups and 13 other youth-related NGOs have joined the campaign.
Cultural programmes/library services for children

174. Cultural and arts programmes and library services are elaborated in detail in paragraphs 503 to 510 and 515 to 517 respectively in Chapter VII.

Protection of children from injurious material

Regulation of radio and television programmes

175. The Broadcasting Ordinance (Cap. 562) and the Broadcasting Authority Ordinance (Cap. 391) govern the content of television and sound broadcasts. The details are as mentioned in paragraphs 103 to 105 of Part II of the Initial Report. The outcome of the review as mentioned in paragraph 106 of Part II of the Initial Report is explained in paragraph 164 above.

Films, videotapes and laser discs

176. The framework on film classification as mentioned in paragraphs 107 to 109 of Part II of the Initial Report remains valid. Our policy is to allow adults wide access to films while protecting young people under the age of 18 years from exposure to material which might be harmful to them. Under the Film Censorship Ordinance (Cap. 392) all films intended for public viewing in Hong Kong are subject to classification by the Film Censorship Authority, who is the Commissioner for Television and Entertainment Licensing, and it is an offence to exhibit a Category III film (i.e. a film classified for persons aged 18 or above only) to a person under the age of 18 years. The first or second conviction is liable to a fine of $50,000, rising to $100,000 for the third and subsequent convictions. Regular surveys of community views and consultation with a statutory panel of advisers ensure that the classification standards are attuned to those of the community.

5 The panel comprises about 300 members from a wide cross-section of the community.
For articles that are not for public exhibition, the position remains the same as in paragraphs 110 to 114 of Part II of the Initial Report. The policy objective in the control of obscene and indecent articles is to protect public morals and young people from harmful effects of obscene and indecent materials while preserving the free flow of information and safeguarding the freedom of expression.

In October 2008, the HKSAR Government launched a four-month consultation exercise on a comprehensive review of the Control of Obscene and Indecent Articles Ordinance (Cap. 390). Town hall meetings and focus group discussions were organised. The town hall meetings were open to Members of District Councils and members of the public. The focus group discussions engaged representatives from various sectors, including women, youth, information technology, education, press and publication, culture and arts, civic rights and social moral. A public opinion survey was also conducted. The consultation period ended on 31 January 2009. Over 18,800 submissions from individuals and organisations were received during the consultation period. Taking into account all the views collected, the Government is preparing more concrete proposals to improve the regulatory regime for a second round of consultation to be held in 2009-10.

**Article 37(a) - The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment**

As mentioned in paragraph 130 of Part II of the Initial Report, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment applies to Hong Kong since 9 December 1992 and continues to apply to the HKSAR when the PRC resumed the exercise of sovereignty over Hong Kong on 1 July 1997. The Convention was implemented by the Crimes (Torture) Ordinance (Cap. 427) in Hong Kong. From 2001 to April 2009, there were no
arrests under the Crimes (Torture) Ordinance. The Committee Against Torture heard the second report of the HKSAR in November 2008.

Death of children in custody

180. Following the submission of the Initial Report till the end of 2008, there was no case of death of children in the SWD’s correction homes and police custody.

Programmes implemented for the prevention of institutional violence and amount of training provided to staff of institutes

181. Topics related to prevention of institutional violence are covered in the induction/basic training courses for disciplined staff of the CSD. After completion of the induction/basis training, all disciplined staff are required to attend regular in-service training (training organised at institutional level) and development training (systematic training centrally organised by the Staff Training Institute) and materials on prevention of institutional violence are diffused in such training.

C. Statistical data

Registered birth

182. The numbers of registered births in HKSAR during 2004-08 are provided in Table 11.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of</td>
<td>48 960</td>
<td>57 175</td>
<td>65 232</td>
<td>70 445</td>
<td>78 786</td>
</tr>
<tr>
<td>registered births</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Freedom of assembly and of association

183. A breakdown of the number of public meetings and public processions in 2005-08 is provided in Table 12.

Table 12: Number of public meetings and public processions in 2005-08

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of public meetings (Public meetings prohibited by the Police)</td>
<td>1 013 (0)</td>
<td>1 291 (0)</td>
<td>2 856 (2)</td>
<td>3 280 (0)</td>
<td>8 440 (2)</td>
</tr>
<tr>
<td>Number of public processions (Public processions to which the Police raised objection)</td>
<td>887 (0)</td>
<td>937 (0)</td>
<td>968 (3)</td>
<td>1 007 (0)</td>
<td>3 799 (3)</td>
</tr>
<tr>
<td>Total no of public meetings and public processions that were not prohibited/objection to</td>
<td>1 900</td>
<td>2 228</td>
<td>3 824</td>
<td>4 287</td>
<td>12 239</td>
</tr>
</tbody>
</table>

Societies Registration/Exemption

184. From 2005 to 2008, 8 624 societies were registered or exempted from registration. The Police did not reject any application for the formation of a society. The respective numbers of society registration and exemption from society registration are provided under Table 13.

Table 13: Number of society registration and exemption from society registration in 2005-08

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Society Registration</td>
<td>1 855</td>
<td>2 161</td>
<td>1 922</td>
<td>2 417</td>
<td>8 355</td>
</tr>
<tr>
<td>Exemption from Society Registration</td>
<td>95</td>
<td>44</td>
<td>58</td>
<td>72</td>
<td>269</td>
</tr>
<tr>
<td>Total</td>
<td>1 950</td>
<td>2 205</td>
<td>1 980</td>
<td>2 489</td>
<td>8 624</td>
</tr>
</tbody>
</table>
D. Factors and difficulties

185. Our considerations in response to Committee’s remarks to prohibit by law corporal punishment in the family are set out in paragraphs 148 to 151 above. We will continue to deal with the issue through public education and intervention by professionals, and keep in view the developments of law in other jurisdictions in this regard.