

**Opening statement by Deputy Secretary for Home Affairs  
at United Nations hearing on child's rights**

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Following is the opening statement by Deputy Secretary for Home Affairs, Mr Stephen Fisher, at the hearing of the United Nations Committee on the Rights of the Child in Geneva today (September 19):

Mr Chairman, distinguished Members,

I am grateful to you and to Ambassador Sha for the opportunity to introduce our report. I would first like to introduce my team.

Our delegation comprises representatives of the policy bureaux that are responsible for the policy issues with which we believe the Committee is most likely to be concerned.

As Deputy Secretary of the bureau whose mandate includes human rights, I have the honour to lead the team. Other team members are:

- Mr Stephen Wong, Deputy Solicitor General, and Mr Godfrey Kan from the Department of Justice;
- Ms Linda Lai, Deputy Secretary for Health, Welfare and Food;
- Ms Michelle Wong, Principal Education Officer; and
- Finally, my Home Affairs Bureau colleagues, Ms Amy Yeung, and Ms Cynthia Tong.

Major issues of concern

I am aware that the Committee intends to focus in this hearing on the questions that it sent to us in June this year. I would like to take this opportunity to address a few of the issues that I know to be of major concern to Members. In that regard, I propose to start with the question of child poverty.

Child poverty

I am pleased to be able to tell you that, in January this year, we announced the establishment of a Commission on Poverty. Its terms of reference are to:

- study and identify the needs of the poor;
- make policy recommendations to prevent and alleviate poverty and promote self-reliance; and
- encourage community engagement, delineate responsibility between the Government, the social welfare sector and community organisations, foster public-private partnerships, and mobilise social capital in alleviating poverty.

The Commission has agreed that children and young people are to rank among its top priorities and that they should be the focus of their immediate work programme.

Mr Chairman, we in the Hong Kong Special Administrative Region (HKSAR) attach the greatest importance to the well-being of children, especially those with special needs. Our policy is to ensure that the healthy and balanced development of our children is not compromised by their families' financial position. To that end, government agencies provide such services as child care, comprehensive disease prevention and health promotion, and other support services. Children with special needs, such as those with physical or behavioural problems, receive special treatment. Additionally, as the Committee is aware, we provide nine years of free and universal education and highly subsidised education at the higher levels.

We have given details of these services in our report, and I take this opportunity to inform the Committee of a recent initiative in the important area of early childhood development. This is the 'Comprehensive Child Development Service' for children from birth to the age of five, which we announced earlier this year. Currently at the pilot stage, the service is an integrated, community-based programme, involving inter-sectoral and multi-disciplinary collaboration among Government departments and relevant agencies to augment the services provided by the Maternal and Child Health Centres, which we discussed in our report. It ensures better alignment of the delivery of health, education, and social services to ensure the early identification of children's special needs and those of their families. Together, these things help to ensure that appropriate services can be made available to them in a timely manner.

#### A Children's Commission

I now turn to the question of an independent monitoring mechanism for children's rights, which we in the HKSAR generally think of as meaning a Children's Commission. This is, of course, a question that the Committee raised in its 1996 concluding observations and again under item B1 of the list of issues. In both cases, we said that we were not entirely convinced that such an institution offered any advantages over the systems already in place. But we undertook to review our position and I take the opportunity to inform the Committee of the state of progress.

The review is now underway, but it will take some time before a decision is reached. Pending that decision, we have decided, as an interim measure, to establish a Children's Rights Forum to provide a regular and formal platform for the discussion of matters concerning children's rights. Membership will comprise children's representative, NGOs, and Government officials. As a complementary measure, we will initiate a pilot 'Children's Rights Education Funding Scheme' for funding public education projects on children's rights in the 2006-07 financial year. These measures will make for direct interface between the Government, children and the organisations that serve them and will help to increase public awareness of the Convention and the rights it protects. They may not go so far as some of our interlocutors would like. But they will ensure that there is progress and no loss of momentum pending a decision on a Children's Commission.

### The Optional Protocol

Another question that I am sure the Committee will wish us to address is why the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography does not yet apply to Hong Kong. I wish to assure Members that we have every intention that the Protocol should so apply. The reason why this is not yet done is a technical one: essentially Hong Kong is a common law jurisdiction and for a treaty to take effect in our domestic law, it is necessary that we either enact specific legislation for that purpose, or amend existing laws so as to bring them into line with the provisions of the treaty. As it happens, our laws conform quite closely to the provisions of the Protocol, particularly since the enactment, in 2003, of the Prevention of Child Pornography Ordinance. However there are still some gaps and minor differences.

Given that the differences are small, it was tempting to consider seeking accession first with a view to amending our laws later. But Articles 26 and 27 of the Vienna Convention on the Law of Treaties provide that every treaty in force is binding upon the parties to it and must be performed in good faith. As a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. So common law jurisdictions generally aim to having the requisite legislation in place prior to agreeing to be bound by a treaty. We have completed the necessary research and have initiated the law drafting process.

Both the sale of children and child prostitution are illegal in the HKSAR and, as far as we know, non-existent. We also have specific legislation in place to prohibit child pornography and child sex tourism. As things now stand, we already have very strong protections for children. The gaps between our laws and the requirements of the Protocol are, as I have said, of a technical nature. I wish to reassure the Committee that we are working steadily towards the eventual application of the Protocol to the HKSAR.

## Conclusion

In conclusion, Mr Chairman, I wish to affirm our total commitment to the Convention. My team and I are ready to answer any questions the Committee may wish to ask.

Thank you.

Ends/Monday, September 19, 2005

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