

LCQ22: Restricting students' freedom of expression

Following is a question by the Hon Ip Kin-yuen and a written reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (July 8):

Question:

The Convention on the Rights of the Child (the Convention), which has been applicable to Hong Kong since 1994, stipulates under paragraph 1 of Article 13 that "[t]he child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds...either orally, in writing or in print, in the form of art, or through any other media of the child's choice", and under paragraph 1(b) of Article 29 that States Parties unanimously agree that the education of the child shall be directed to "[t]he development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations". On the other hand, on June 10 this year, the Secretary for Education (the Secretary) wrote to the principals of all primary and secondary schools in Hong Kong, requesting them to counsel their students to stop "chanting slogans, forming human chains, and posting slogans or singing songs which contain political messages at schools for expressing political stance", and stated that "if individual students refuse to comply with the instructions after repeated persuasion, schools should take appropriate counseling and disciplinary actions according to the school-based mechanism". In addition, when the Secretary was asked at a radio interview on June 11 whether students might play and sing the songs from the musical *Les Misérables* at school music competitions, he responded that it would depend on the circumstances and the purpose at the time. In this connection, will the Government inform this Council:

(1) whether it has assessed if the aforesaid request made by the Secretary to the principals of primary and secondary schools has constituted a restriction on students' freedom of expression, thereby violating the aforesaid provisions in the Convention under which the child shall enjoy such right; if it has assessed and the outcome is in the negative, of the justifications for that;

(2) whether it has assessed if "listening to the views of the students" is one of the indispensable elements in good school-based management practices; if it has assessed and the outcome is in the affirmative, why the Education Bureau (EDB) has requested schools to counsel students to stop expressing political stance; of the measures in place to ensure that students may express themselves freely without fear;

(3) of the criteria based on which the EDB determines whether the songs played and sung by students at schools are political promotion or political

propaganda in nature;

(4) under what circumstances or for what purpose that students playing and singing songs at schools will be regarded by the EDB as conducting political promotion or political propaganda;

(5) whether students playing and singing The Internationale or Bloodstained Elegance (a military song of the People's Liberation Army) at schools will be regarded by the EDB as conducting political promotion or political propaganda; and

(6) given that since the 1980s, it has been recognised across the globe that forming human chains is a peaceful way to express an array of aspirations (apart from political promotion or political propaganda, such aspirations include raising funds to fight hunger, advocating world peace, striving for debt forgiveness for developing nations, fighting for gender equality), and that some local pro-establishment organisations initiated a human chain activity in 2016 in which a large number of children took part, whether the EDB prohibits, in a broad-brush manner, students from forming human chains inside and outside schools?

Reply:

President,

Schools are places for students to learn and grow. They should not be used as a venue for anyone to express their political demands. Such acts will affect the normal learning of students and stir up their emotions. We are pleased to see students care about society. As to whether and how to discuss controversial social issues, it depends on the stage of students' cognitive development. We should also stick to basic principles such as rationality, impartiality and analysis from multiple perspectives, but under no circumstances should anyone be allowed to incite students to indicate their stance on controversial or evolving political issues and mobilise them to take part in inappropriate or even unlawful activities in support of their political cause at the expense of students' interests. This is also a general consensus of the education sector. During the past year, some individuals and groups with ulterior motives have deliberately misled and incited students to express their political stance in different ways (such as boycotting classes, chanting slogans, forming human chains, and posting slogans or singing songs which contain political messages in schools) in order to achieve their political objectives. The Education Bureau (EDB) and schools are obliged to stop these acts. It is heartbreaking to see our students being used as political chips. We strongly condemn the acts of these people who have been causing harm to our students. To ensure that our students can learn in a peaceful, caring, rational, safe and orderly campus environment, the EDB will do our best to protect them.

Our reply to the various parts of the question is as follows:

(1) and (2) We note that paragraph 1 of Article 13 of the Convention on the

Rights of the Child (the Convention) provides for the right to freedom of expression. However, such right is not absolute. Paragraph 2 of Article 13 of the Convention also stipulates that the exercise of this right may be subject to certain restrictions, including those which are necessary for respect of the rights of others, or for the protection of national security or of public order, or of public health or morals. Besides, paragraph 1(b) of Article 29 of the Convention sets out that the education of the child shall be directed to "[t]he development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations". More importantly, Article 3 of the Convention provides that in all actions concerning children, the best interests of the child shall be a primary consideration. The Government has the responsibility to ensure the children such protection and care as that is necessary for their well-being, including their educational needs and learning life free from interference.

Peaceful and orderly school environment and atmosphere are crucial to students' learning and growth. In response to some groups' inciting students to participate in a so-called "referendum" on holding a strike and class boycott, the EDB issued a letter on June 10 to all primary and secondary school principals in Hong Kong, calling on them to remind students once again that they should always put their own safety as the top priority, be considerate to themselves and family members who care about them, and must not participate in dangerous or unlawful activities. They should not participate in class boycotts, or take part in activities such as chanting slogans, forming human chains, and posting slogans or singing songs which contain political messages at schools for expressing political stance. These actions would stir up other people's emotions and undermine the harmonious school environment and progress of learning. With the interest of students as our primary consideration, the EDB has repeatedly appealed to schools with a view to protecting students' well-being.

On the other hand, we have all along encouraged schools to maintain communication with different stakeholders (including students) through various channels to understand their views on various aspects of the schools. This can facilitate the self-evaluation and self-improvement of schools, which will in turn enhance the quality of education. Nevertheless, we have to emphasise that such exchange of views should be conducted in a peaceful and rational manner without being subject to any pressure. Under no circumstances should students or other persons be incited to indicate their stance on controversial and evolving political issues or mobilised to take part in inappropriate and even unlawful activities.

(3) to (6) We would like to reiterate that no political propaganda activities should be allowed in schools, and no one, including students, should play, sing and broadcast songs which contain political messages or hold any activities to express their political stance. Playing and singing songs, which cover a wide range of topics, are one of the ways for people to express their thoughts and feelings. Some of the songs are composed and performed under certain social, historical, cultural and era background, and public's understanding and views of them may change with different social landscapes. Whether students are allowed to play and sing a particular song or certain

songs in schools should be considered based on certain basic principles. In this regard, the EDB would like to emphasise that schools must not allow their students to play, sing or broadcast any songs which will disrupt the normal operation of schools, affect students' emotions or contain political messages. For example, the song "Glory to Hong Kong", originated from the social incidents since June last year, contains strong political messages and is closely related to the social and political incidents, violence and illegal incidents that have lasted for months. Therefore, schools must not allow students to play, sing or broadcast it in schools.

Moreover, in case a student acts in a way which is not respectful on occasions such as graduation ceremonies and school opening ceremonies or in learning activities or not in line with the learning objectives in schools, the schools concerned should take prompt action to stop it. Playing, singing or broadcasting songs with political messages and forming human chains are ways to express political demands and incite the participation of other students, which are not in line with the curriculum or learning objectives. Of course there have been activities forming human chains for various non-political reasons across the world in the past. Nevertheless, forming human chains and chanting certain slogans, which carry strong political messages, have obviously been organised or carried out neither for charity nor other non-political purposes since September last year. Therefore, schools should dissuade students from doing so.

In addition, looking at the incidents in the past year, the forming of human chains inside and outside schools have inevitably caused a nuisance to others. Problems such as noise nuisance have caused the resentment of residents in the neighbourhood and in some cases have even led to incidents such as confrontations, injuries to persons and throwing objects from height. To protect the personal safety and well-being of students, both the EDB and schools have the responsibility to stop students from forming human chains.

Over the past year, many students were incited to participate in violent and unlawful activities and quite a number of them were arrested and even prosecuted. According to information gathered from various sources, among those arrested from June 2019 to May 2020 in relation to the social incidents, about 1 600 of them were aged under 18. We believe that most of them were secondary school students and some were primary school students. This is distressing and worrying. We must let students understand clearly that they are responsible for their behaviour. In school, punishment and guidance are made in accordance with the school-based disciplinary and counselling mechanisms. Outside school, the responsibility is taken according to law. We do not want to see our students being injured, arrested, prosecuted and even convicted. We need to dissuade and stop students immediately when there are signs of their breaking the law or violating any regulations. We remain steadfast in safeguarding the well-being of our students and upholding the goals of education in Hong Kong by cultivating their positive values and moral character so that they can learn to abide by the law and respect others.