



Hong Kong College of Paediatricians

Submission to Panel on Constitutional Affairs on

"Concluding Observations by the United Nations Committee on the Rights of the Child on the Second Report of the Hong Kong Special Administrative Region under Convention on the Rights of the Child"¹

November 2013

The Hong Kong College of Paediatricians appreciates that the United Nations Committee on the Rights of the Child (UNC), after reviewing the situation of children in Hong Kong, has made many specific and concrete recommendations to the government of the Hong Kong SAR (the government). In particular, the UNC urged the government to

1. establish “**a children’s commission**” with a “clear mandate to monitor children’s rights.”
2. “adopt a comprehensive **policy on children**, and, based on that policy, develop a strategy with clear objectives and coordinated **plans of action** for the implementation of the Convention, and allocate adequate ... resources for their implementation, monitoring and evaluation.”
3. define “**Strategic budgetary lines**” for children
4. establish “centralized **data collection systems**”... “and to analyse the data collected as a basis for assessing progress achieved... designing policies and programmes... The data should be **disaggregated** by age, sex, geographic location, ethnicity and socio-economic background to facilitate analysis of the situation of all children...”

These recommendations are not new. The UNC noted “with regret” that some recommendations in the Concluding Observations of 2005² were not implemented which unfortunately included all of the above.

The government takes the recommendations from the 18 international experts in the UNC as “goodwill” gestures while at the same time stating that due considerations of “the best interests of the child” is already ensured in formulating policies that may have implications on children.³ The Family Council and Children’s Rights Forum are said to already serve the function of a Children’s Commission, and that requesting “family perspectives” for policies and programmes is the same as ensuring a child perspective or a child impact assessment. The “wide range of policies” taken care of by “the respective bureaux” under the Policy Committee led by the Chief Secretary for Administration already provides the necessary co-ordination and co-operation within the government.⁴ There is no added value in a separate Plan of Action. As for a children’s budget, the government’s response to the UNC’s request for information is often “no breakdown of expenditure for children is available” or merely stating within an

¹ Concluding Observations 2013 <http://www2.ohchr.org/english/bodies/crc/crcs64.htm>

² Concluding Observations 2005 <http://www2.ohchr.org/english/bodies/crc/crcs40.htm>

³ Press release October 9, 2013 <http://www.info.gov.hk/gia/general/201310/09/P201310090635.htm>

⁴ Combined Third and Fourth Reports of the PRC under the CRC – Part Two: HKSAR
http://www.cmab.gov.hk/en/issues/child_report2.htm

expenditure item, “a significant portion” is for children or family and children.⁵ The minimal information under Children Statistics and Information within the website of Constitutional and Mainland Affairs⁶ is Hong Kong’s child database.

As child health is our College’s major concern, we will highlight some examples related to the child’s right to the “highest attainable standard of health” as laid down in Article 24 of the Convention of the Rights of the Child (CRC) to illustrate that had the government fulfill its obligation of implementing the CRC and take the Concluding Observations seriously, the outcome for the children in Hong Kong may be different.

1. Child Mortality

1.1. Hong Kong is rightly proud of its low infant mortality rate but this does not mean there are no preventable child deaths in Hong Kong. The First Report of the Child Fatality Review Panel of deaths in 2008 – 2009⁷ identified 82 children who died of unnatural causes which were potentially preventable. Although the panel is independent, it was formed as a responsibility of the Social Welfare Bureau. Under the government concept of different bureaux attending to different policies, the objectives of the review could only be general such as making recommendations for service enhancement and promoting inter-sectoral collaboration and inter-disciplinary co-operation. Information was based on Coroners’ Reports collected not for a child fatality review, and voluntary reports from agencies involved with the child who died. So after 33 meetings and the involvement of 20 professionals, the 21 recommendations were mostly on enhancing education. Not surprisingly, the recommendations were not difficult to fulfill as the responsible departments or bureaux simply described the work they have been doing while some responses were a simple “noted” or “agreed” to the recommendation.

1.2. The importance of disaggregated data is well demonstrated by studying the child mortality in different areas and socio-economic status in Hong Kong. While the under-5 mortality of 4/1000 live births in 2009 is considered low, it was 17 to 35/1000 live births in parts of the New Territories. In the most deprived areas, the under-5 mortality was 1.5 times that of the city average or a difference of 100 percent between the most and least deprived areas.⁸

2. Child Abuse and Neglect

⁵ Written replies by the Government of China concerning the List of Issues received by the UNC relating to the consideration of the second periodic report of China – Part One: HKSAR

<http://www2.ohchr.org/english/bodies/crc/crcs64.htm>

⁶ Children’s Rights Forum: Children Statistics and Information

http://www.cmab.gov.hk/en/issues/child_statistics.htm

⁷ First Report of the Child Fatality Review Panel 2013

http://www.swd.gov.hk/doc/whatsnew/201305/CFRP_First_Report_Eng.pdf

⁸ Cities, Health and Well-being 2011 <http://lsecities.net/publications/conference-newspapers/hong-kong/>

It is well established that early childhood experiences affect brain growth and development with implication on the child's physical and mental health.⁹ Children have a right to grow up free from violence. Therefore the UNC clearly states that corporal punishment is to be explicitly prohibited by law in all settings including in the family. Although the government proclaims the best interest of the child is a necessary consideration, it hesitates to put into action "Zero tolerance for violence" when it comes to children. Thirty four states spanning four continents have already prohibited corporal punishment by law.¹⁰ The government is doing a disservice to our children by condoning such practice in the name of cultural consideration.

Article 18 of the CRC does state that "Parents... have the primary responsibility for the upbringing and development of the child", but "State Parties shall render appropriate assistance to parents..." Children being unattended is very prevalent in Hong Kong. A report in 2009 estimated that 77,400 children aged 0 to 10 years including 21,500 aged 5 years and below were left alone at home or were cared for by children below 16 years in the 12 months preceding the survey.¹¹ Under the existing legislation, it is an offence to willfully neglect a child but such intention is not easy to prove. Meanwhile the government introduced occasional child care service and neighbourhood support childcare to address the problem. Without a stronger law that defines the level of care acceptable in the society and a regularly updated database on the need and availability of childcare services for planning purposes, the current limited places provided is unlikely to fill the service gap while children continue to risk being neglected and suffer injuries and death.

3. Exclusive Breastfeeding, Baby-Friendly hospitals and Code of Marketing of Breast-milk Substitutes

The Concluding Observations reiterated the importance of breastfeeding. Although the initiation rate of breastfeeding is high in Hong Kong, 85.8% for births in 2012, the four to six month exclusive breastfeeding rate was only 19.1%. WHO recommends exclusive breastfeeding for six months and ensure the timely introduction of appropriate and safe complementary foods, continue breastfeeding to two years or beyond. How to achieve this is well outlined in the General comment on Article 24 (2013).¹² Other than the establishment of baby-friendly hospitals and a code regulating the marketing of breast-milk substitutes, there needs to be community and workplace support for mothers and compliance with the International Labour Organization Convention No. 183 (2000) on the provision of maternity leave of at least 14 weeks and protected nursing breaks while at work.

⁹ Centre of the Developing Child: Harvard University

http://developingchild.harvard.edu/topics/science_of_early_childhood/

¹⁰ Global Initiative to End Corporal Punishment

<http://www.endcorporalpunishment.org/pages/pdfs/GlobalProgress.pdf>

¹¹ Lau, YL, et al (2009) Child Health Survey 2005-2006. http://www.chp.gov.hk/files/pdf/chs_eng.pdf

¹² General comment No. 15 (2013) (on the right of the child to the enjoyment of the highest attainable standard of health (art. 24) <http://www2.ohchr.org/english/bodies/crc/comments.htm>

Matters related to breastfeeding are considered the responsibility of the Department of Health. Hence under the government's existing philosophy, the Breastfeeding Policy of the Department of Health remains that of the Department and not that of Hong Kong. Instead of all bureaux working together to ensure mothers can practice optimal infant feeding as recommended by WHO, the Food and Health Bureau can only urge hospitals, both public and private, to become baby-friendly, advise civil service units to give nursing breaks, and the Buildings Department draw up guidelines for baby care rooms. The Labour and Welfare Bureau's terse response to the UNC at the Geneva hearing on the implementation of CRC in Hong Kong in September 2013 was that ten weeks of maternity leave is enough. The government has yet to announce the decision on the public consultation on the draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children which ended early this year. The impact of the business sector on children's rights is the subject of General comments No. 16(2013).¹³ It is hoped that the government will truly decide on upholding CRC's principle of best interest of the child.

4. Play in Health services

Our College looks forward to the opening of the Centre of Excellence in Paediatrics. A children's hospital for Hong Kong is long overdue. During the July 2013 Children's Rights Forum when the children's hospital was on the agenda, the children that were invited to attend could hardly understand the preparatory consultation papers, difficult even for adults to digest. What the children were most interested in was whether the facilities were child friendly e.g. whether the children could play. They were reassured that the children's hospital will have a full range of play services including play specialists and therapists.

The UNC is concerned with the child's right to play and leisure. The relevant General Comment No. 17 (2013)¹⁴ on the subject clearly states that children are entitled to this right even if they are "ill and/or hospitalized" as play serves "an important role in facilitating their recovery," but this should not be confined to the children's hospital. The vast majority of children requiring hospital service will not be using this tertiary service. A play service with trained play specialists should be available in all hospital serving children within the territory without discrimination.

The government's repeated statements that the recommended measures of the UNC are either unnecessary or in place in various formats already has not satisfied UNC's interpretation of the implementation of the CRC. The Family Council's term of reference does not include the implementation and monitoring of the CRC while seventy countries and 200 places round the world have already

¹³ General comment No. 16(2013) on State obligations regarding the impact of the business sector on children's rights <http://www2.ohchr.org/english/bodies/crc/comments.htm>

¹⁴ General Comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art 31) <http://www2.ohchr.org/english/bodies/crc/comments.htm>

established a Children's Commission or a Child Ombudsman.¹⁵ The Legislative Council of Hong Kong unanimously passed a motion in 2007 urging for the establishment of a Children's Commission and the UNC is asking why there is such a delay.¹⁶ Children cannot wait. Maintaining the status quo is not an option. Children in Hong Kong should not have to suffer the sequelae of missing out on the upholding of their basic rights of survival, protection, development and participation at the critical period of their lives.

¹⁵ European Network of Ombudspersons for Children <http://www.crin.org/enoc/network/index.asp>

¹⁶ List of issues in relation to the combined third and fourth periodic reports of China
<http://www2.ohchr.org/english/bodies/crc/crcs64.htm>