

The UN Hearing and Concluding Observations on Reports submitted by Hong Kong SAR on Convention on the Rights of the Child (CRC) (2005)

Although HK is small compared with the whole of China, the UN Committee on the Rights of the Child (UNC) paid much attention to the reports from HKSAR illustrating why the Convention is on the 'Rights of the Child' and not 'Children' as every child matters.

We appreciate the government inviting the chair and the country rapporteur of UNC to visit HK before the hearing. Apart from meeting government officials, our government was very open in arranging them to meet some NGOs and Child Councillors so that they can have a better understanding of the situation in HK.

Principal subjects of concern and recommendations of the UNC:

1. General measures of implementation

- 1.1 The recommendations in the Concluding Observations to the 1st report in 1996 still stand and are to be implemented. Effort should be made to remove reservations.
- 1.2 Unlike China HK still lacks a comprehensive Plan of Action for the implementation of the CRC.
- 1.3 HK is urged to have a national human rights institution with a clear mandate for the monitoring of children's rights and the implementation of the CRC.
 - 1.3.1 The function of such an institution is to be clearly spelt out with the mandate to receive, investigate and address complaints from the public, including children.
 - 1.3.2 It should be provided with adequate financial, human and material resources.
- 1.4 Budget allocations should target the reduction of income disparities, including through increased funding for social safety net and ensuring the funds benefit the most vulnerable populations.
- 1.5 Central databanks for children's statistics are required for the development, implementation and monitoring of appropriate policies and programmes for children.
- 1.6 The CRC ought to be disseminated through child-friendly materials and school curricula, to children, to parents and to professionals working with and for children.

Despite the repeated explanations by our government officials, the UNC clearly felt that HK lacks direction in matters related to children and a vision for our children.

HK needs a **Child Policy** taking a “holistic and comprehensive approach” to the implementation of the CRC. There should be **Child Impact Assessment** on policy decisions on children. We also need a **Plan of Action for Children**. UNC talks about a human rights institute with mandate for children, which is the **Child Commission** we have been advocating for.

Clearly the UNC did not accept the explanation offered by our government officials that because our different bureaux are in close proximity within a building meant that we have a co-ordinated policy for children. In fact, in HK, HAB has repeated professed that they only co-ordinate the report on the CRC and has no jurisdiction as to what different bureaux do or not do. At most HAB can ask for information.

It is understandable that different bureaux have their own agenda and priorities and they own balancing act to do. An example is the recent consultation paper on “Building a Healthy Tomorrow”. There was no member with special interest in children in the main “Health and Medical Development Advisory Committee”. There was only a paediatrician in one of the working groups. Hence, the whole paper focused on the elderly.

An example of the effect of a lack of child impact study in policy decisions is the change in charging of non-entitled persons delivering babies in HK in April 2003. It created chaos in our obstetric and paediatric units affecting the right to health of the babies born who are all HK citizens. The change in charging system in September 2005 did not relieve the problem either. That is why we need a Child Commission to ensure that our government practise what she repeatedly claims that we honour the statement that the “best interest of the child is the primary concern in matters related to children”.

The UNC was informed a number of times that HK will have a Child Rights Forum but this is not what the UNC is looking for. As an UNC member said, they are not looking for new entities. While our government officials did say they are exploring the feasibility of a Child Commission, no time frame was given.

It has to be made clear we are not looking for purely an extension of the age of coverage of a Youth Commission. In fact the functions of the Child Commission are

clearly stated by the UNC in the Concluding Observations and are quite distinct from our existing Youth, Women or Elderly Commission. The Child Commission has the functions of monitoring and implementing the rights of the child including the mandate to address complaints.

The UNC is very concerned about child participation right. The UNC appreciates the support of our government for the Children's Council so far but is concerned that children's voices are not heard or sought systematically including on matters like education reform. A standing body representing children's views in the political process is encouraged.

The UNC also asked for legislation that takes a holistic and comprehensive approach to the implementation of the Convention. Although our government says any law reforms will go through our Department of Justice to ensure they conform to the various conventions, we still have problems with our existing laws being not in the best interest of children. A simple example is that children requiring foster care can only go into foster care with parental consent even if this form of alternate care is in the best interest of the child,

From the supplementary questions to our government prior to the hearing, the Committee is clearly asking our government to identify a budget for children with particular attention to support for vulnerable children.

Our government officials informed the UNC that in the area of early child development, HK is setting up a Comprehensive Child Development Service, presented as a major advancement. In essence, it is an exercise to enhance co-ordination of existing services only with minimal additional input of resources. With our Finance Secretary currently working on our budget, it is an opportune time that he considers what budget he is allocating to the children of HK.

Statistics on children are essential so that we know the existing situation, target our programmes at areas of need and measure our success in dealing with problems if not the progress. The UNC is very disappointed that despite asking for breakdown statistics for children, that is aged under 18, our government has not been able to provide such statistics in many areas like Sexually Transmitted Diseases, alcohol use, smoking, etc after making the request years ahead. It is strange that for statistics on childhood suicide, only deaths in in-patients due to intentional self harm were given. Children who died before getting into hospital never become in-patients! We need a

specific **Central Data Bank on Children**.

2. General principles

- 2.1 HK is urged to adopt legislation prohibiting discrimination on the basis of race or sexual orientation.
- 2.2 More information is required on how the best interests of the child is ensured in actions concerning children.
- 2.3 The UNC appreciated government support for the Children's Council Working Committee but is concerned that children's views are not sought systematically. This includes at the policy-making levels such as the education reform, in schools and at home. A standing body to represent children's views in the political process is encouraged.

3. Civil rights and freedom

We keep on saying we have zero tolerance for domestic violence, for child abuse, for school bullying but we tolerate parents teaching children that violence is a means of conflict resolution. The problem is very widespread in HK. From the HKU study announced middle of 2005, 1 in 4 children a physically assaulted by adults at home and 1 in 3 adults reported physically assaulting children within 12 months of the study. No wonder the UNC recommend that

- 3.1 **Corporal punishment should be prohibited by law** at home as well as other settings.
- 3.2 Alternate non-violent forms of discipline are to be promoted.

4. Family environment and alternative care

- 4.1 The UNC is deeply concerned with the quota system for persons entering HK from the mainland and regulations regarding the right of abode contributing to separation of children from their parents and hindering family reunification.
- 4.2 The 1993 Hague Convention is to be extended to HK and incorporated into domestic legislation.
- 4.3 Although HK had increased the number of social workers, the UNC is concerned that policies and programmes to assist child victims of violence are not fully effective. Mandatory reporting is required for professionals.
- 4.4 Training of professionals, co-ordination and follow-up of cases are to be enhanced and that there should be no discrimination in handling investigations whether the alleged perpetrators are from within or outside the family.

5. Basic health and welfare

- 5.1 The UNC recommends ensuring the principles and provisions of the CRC are applied to children with disabilities.
- 5.2 The UNC also urges that breastfeeding be promoted through strengthening the implementation of the International Code of Marketing of Breastmilk Substitutes and through the promotion of Baby Friendly Hospitals in HK.
- 5.2 The UNC is concerned with the high incidence of teenage pregnancies and abortions in HK and that adolescent health, including sexual and reproductive health education in schools and youth-sensitive and confidential counseling should be enhanced.
- 5.3 There is also concern for mental health including youth suicide and that there should be campaigns on health-behavioral choices and life skills.
- 5.4 The UNC is concerned with our child poverty. HK should establish a poverty line and develop policies to combat child poverty expanding access to social welfare benefits to all vulnerable populations including new immigrants.

Despite the recommendation with regard to breastfeeding in the Concluding Observations of the First Report in 1996, 9 years later HK has yet to comply with the International Code of Marketing of Breastmilk Substitutes, in particular the receiving of free supplies of formula milk from milk powder companies, a clear conflict of interest when we proclaim we are promoting breastfeeding. It is disheartening that when the UNC asked why HK does not even have a single Baby Friendly Hospital i.e. a hospital that is accredited to comply with the WHO Ten Steps to Successful Breastfeeding and the International Code, our government official did not understand what is a Baby Friendly Hospital. We need government policy makers to understand why breastfeeding is important and that having Baby Friendly Hospitals is a means to ensure we are up to WHO standard.

6. Education, leisure and cultural activities

- 6.1 UNC is concerned with the dropout rates in secondary school
- 6.2 Violence in schools is also a concern and programmes of prevention should involve children themselves
- 6.3 The Government should seek to reduce the competitiveness of the education system and promotion of active learning capacities and the right to play and leisure.

Although we have 9-year 'free' education, the UNC members are concerned that education has hidden costs that some families can ill afford. The UNC is not satisfied with the numbers of children entering school. They want to know how many finishes

school. For HK, they are concerned with the drop out rate. They are also concerned with the competitiveness and not enough attention paid to children's right to leisure and play.

7. Special protection measures

- 7.1 Human rights should be guaranteed for all children. Hence all refugee, asylum seeking or undocumented migrant children should be able to attend school.
- 7.2 The Optional Protocol on the sale of children, child prostitution and child pornography should be extended to HK.
- 7.3 The UNC is concerned with the lack of data or reported cases of child prostitution in HK (local children and children coming across the border). There should be a comprehensive policy to prevent and combat sexual exploitation and trafficking in children
- 7.4 The Age of Criminal Responsibility of 10 is too low and should be raised. There is concern that children aged 16-18 are not consistently accorded special protection when coming into conflict with the law. Deprivation of liberty is always the last resort.

8. Follow-up and dissemination

- 8.1 Full implementation of the recommendations should be sought through the Executive and Legislative councils in HK
- 8.2 The report, written replies and recommendations should be disseminated to the public, organizations, youth, professionals and children in order to generate debate and awareness of the CRC, its implementation and monitoring. We would add to government officials and the media as well.

9. Next report: March 2009

Having the hearing with China has its advantages. China faces many problems, some of them similar to ours. Article 44(2) of the CRC clearly states that we should indicate factors and difficulties affecting the degree of fulfillment of the obligations under the CRC. The officials from China had the humility to admit that they do face difficulties because of the enormity of population and the vastness of land. Unfortunately HK seems to be very proud that we have everything in place. We never seem to look at whether the quantity is appropriate and whether the quality is acceptable.

This is a golden opportunity for us to learn from China and combine our strengths e.g. China has good laws in protecting the interest of children which they have difficulties

implementing while we stress conforming to the rule of the law. This is also an opportunity for us to work with China as we have many common and cross border issues involving children and families.

The Child Rights Forum has now met. It is important to look at the Concluding Observations and see how NGOs and children can work with the government to realize the recommendations. If the government thinks the Child Rights Forum is an interim measure, how to bring about a Child Commission that is not purely advisory but that which can transform the slogan of the best interest of the child into action. The next report to the UNC is only 3 years away and children cannot wait.

Against Child Abuse Ltd.

February, 2006