

AGAINST CHILD ABUSE
Responding to Legco Panel on Welfare Services Special Meeting on
Child Protection
29 June, 2006

1. Introduction

Responding to the invitation of the Panel on Welfare Services, Special Meeting on 29 June 2006, this agency presented this submission based on the following papers and concerns:

- a. SWD paper on Child Protection, June 2006
LC Paper No. CB (2) 2540/05-06 (01)
- b. Committee on the Rights of the Child (Fortieth Session)
Consideration of Reports Submitted by States Parties under Article 44 of the Convention
(Concluding Observations: China (including Hong Kong and Macau, SAR)
CRC/C/15/Add 271, 30 September, 2005
- c. Recent Child Abuse Cases Reported in the News
 - Child Neglect: 4 unattended children left with their 83 year old grandma
 - Physical Abuse: a child hit 200 times by the tutor who was convicted and fined HK\$2,000-

This agency upon studying the captioned documents and case clippings felt strongly that:

- a. The government child protection policy has been outdated, not holistic nor comprehensive, more remedial and reactive and requires a prompt review and up-date.
- b. The government lacks determination and will power to executive laid down policy and legislation in humane yet decisive manner thus tolerating harm

to children neglected and abused.

- c. The government appeared more concern of the rights and welfare of the abusers and perpetrators than honoring the best interest of the child notion.
- d. The government has failed to ensure adequate protection for Neglected Children in the following ways:
 - To define Child Neglect as Child Abuse
 - To invoke the law if there is an offence
 - To enlarge sentencing options to include options such as mandatory treatment and rehabilitative programs for victims and abusers
 - To provide all necessary measures to support needy families to prevent child neglect and child abuse
 - To prevent child abuse and neglect by putting in place effective home visiting program for every family with new born

2. Child Protection Deserves A Review

The discussion on Child protection is timely and essential for the following reasons:

- a. The complacent assumption that HK has done considerably in child protection and has already established a sound system is dangerous.
- b. In recent debates on domestic violence, child protection hasn't received action and resource support as it should have. No fundamental changes in the system, legislation and mind set has been observed.
- c. The serious deterioration of family cohesion and solidarity as consistently reflected in the Hong Kong Council of Social Service Social Development Index reflected risks and concerns for children and families.
- d. The huge projected gap between reported and unreported child abuse cases captured by the HKU Household Survey Report, 2004/05 caused grave concern, yet had not yet contributed to prompt changes in policy, law and system.
- e. Areas such as child neglect debated since the mid eighties, with media captured cases such as the Kwok Ah Nui case, contributed to some changes in the late eighties yet no review nor plan of further action put in place ever since.

3. Reluctance to Define Child Abuse

3.1 We witnessed the reluctance to define harsh corporal punishment as physical abuse in the eighties and professionals at that stage were looking for intent to harm and reluctant to tell abusers that their act though unintentional to harm were actually harming our little ones and should be called to a halt. We also witness the tolerance and condoning of corporal punishment towards children and the reluctance to legislative against corporal punishment in general.

Fifteen jurisdictions have gone one further mile and appeared more decisive than ours to prohibit corporal punishment and humiliating discipline of children. As the UNCRC Committee in the Concluding Observation recommends the abolition of corporal punishment; HK yet took no further step in this direction. The Case with a child hit by the tutor for 200 times or more was convicted since there exist legislation prohibiting hitting of children in schools/tutorial schools, was fined HK\$2,000- A sentencing considered very low.

3.2 Child Neglect: a no man land

Child Neglect also kills and could be very dangerous. Children unattended often have to bear serious and long lasting consequences, physically and emotionally. Child Neglect is prevalent as reflected in the General Household Survey, 1997 captioned 73,900 households with 110,000 children under the age of twelve left unattended on at least one occasion during the Week before the survey. The Child Protection Registry only received a small number of cases of neglect reported. The unreported and unaddressed situation including its contributing factors must be reviewed and immediate measures put in place to ensure neglected children receiving adequate care and attention.

Children Neglected can be found more in the following areas:

- a. Children in poverty and children receiving Comprehensive Social Security
- b. Children in Split Families
- c. Children in Broken Families
- d. Children in Families with Domestic Violence
- e. Children whose parents, without any monitoring, delegate parental responsibilities to Domestic Helpers
- f. Children exposed long hours and unsupervised to the Cyber World

4. Reluctance to invoke the Law to Prosecute and to Protect and no effective support provided

As we join other parts of the world to take precaution against over incriminating child and family related matters, we tend to believe in adequate legal protection to set the baseline in the community as it is the basis for education and prevention.

However there is reluctance in Hong Kong among professionals and lay public to resort to legal protection as compared to other developed jurisdictions that would be more willing to do so even in the absence of serious injury and death. The logic for prosecution and sentencing in Hong Kong deserves a review to ensure the best interest of the child notion practiced.

The government will have to inform the community the number of prosecutions and convictions, if there is any, under the Offences Against the Persons Ordinance for neglect cases and the Number of Care Orders and Child Assessment Orders applied and where such children have been placed. One of the possible reasons for not invoking the law could be the limited sentencing options and the inclination to avoid criminalization and incarceration of parents and families. A way out is to widen the sentencing options to include non incarceration means such as community service orders, mandatory treatment and rehabilitative measures.

For the Child Neglect case in hand, we think the four children failed to be nurtured in a loving family with physical care, mutual support and emotional security available. However, the Government did not take decisive and consistent action when the case was first identified. The parents were not held responsible at all for their neglect and during the stage of investigation, the other three children were allowed to remain in the seemingly undesirable home environment. No immediate and effective support was provided to the family to ensure these very young children properly supervised and attended. No immediate resource and attention was provided to ensure the elderly supported either.

Furthermore to only remove the youngest child for residential service instead of foster care and allowing the other three, including the also very young sibling who was injured to remain at home reflected the indecisive handling of the

Department. The reasons given by the relevant department has failed to be convincing. Such decision could be a result of the laid down policy only to remove a child when the life of a child is endangered. (refer to SWD paper, p.1, para 3.) The amendment of such policy to include a wider justification for removal would help to prevent pushing children unattended back to their though not yet life threatening but potentially at risk home environment.

5. Children's Best Interest Did not Receive Paramount Concern

In the two cases in hand as in many others, the children's best interest did not receive paramount concern. Professionals involved appeared more concern with abusers' rights. This is particularly clear in the discussion of mandatory treatment for perpetrator and offenders. Government officials were concerned not to violate perpetrators' rights more than ensuring children's and the community's protection. This kind of reservation had not been founded in other developed and progressive jurisdictions, who would certainly be as concerned with offenders' rights as we do.

Prevention from head start is in the best interest of children. If head start home visiting program have existed in the past six years in Hong Kong, support would have be given to this family when each of the four children come into this world. Early identification of social needs of this family would have brought support and supervision in early and the four children may have been prevented from being neglected and the two year old scalded child may have been saved the trauma.

Hong Kong should honor in action her policy laid down in position paper and when she extend UNCRC into Hong Kong. The UN in the Concluding Observation has been very concerned about the limited information by the State Parties in all areas under its jurisdiction on how the principle of the best interest of the child is taken as a primary consideration in all actions concerning children.

We are concerned that the existing channels and procedures to implement and monitor the upholding of such notion had been ineffective. It is in such spirit that we continued to urge for a child commissioner and a child commission to be appointed to shoulder this important role. It is also in this spirit that we continued to urge for on going specialization of child protection and multidisciplinary training and collaboration. Efforts have been devoted to

formulate the child protection system and compile procedures of cases handling. Nevertheless from our child protection work, we observe there remain a large number of professionals from various disciplines who weren't even adequately informed of the procedures. All professionals, including the Judiciary, should be required to receive training and be adequately informed of the principles and procedures of child protection.

6. Conclusion

Any criticism made in this paper should not be seen as an intention to undermine Hong Kong. The intention is to strive for a more thorough and more decisive and proactive Child Protection Policy, a more independent and effective Child Representation with a more effective and high powered mechanism established. The intention is also to urge for a holistic and comprehensive approach requiring Priority Given to Children and children's issues, as recommended by the UNCRC Committee in the Concluding Observation that 'such policy be actively coordinated and assessments are made regarding the potential impact of policy decisions on children'.

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Date: 29 June, 2006