

**Responding to the Second Report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child (CRC/C/CHM/3-4)**

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This Year, 2013, is an important year for Hong Kong. Three of the very important International Human Rights Reviews take place at the United Nations in Geneva: the International Covenant on Civil and Political Rights (ICCPR), the Universal Periodic Review (UPR) on Human Rights and the United Nations Convention on the Rights of the Child.(1) .

The world is coming together making commitments, striving for best practices to ensure best interests of individual human being, of a child respected and protected by every means. Hong Kong joined this mission by extending the UNCRC into Hong Kong in 1994. We child advocates are concerned if the Hong Kong SAR has been trying **the very best** in making this **best interest of the child** notion real!

In the Hong Kong SAR Report on UNCRC (the HK UNCRC Report), the first if not most fundamental question to answer is **whether we have adopted a visible plan of action and if an independent mechanism (Child Commissioner/Child Commission) for policy formulation and coordination, monitoring and evaluation and community participation, children's participation in particular is a better option and if so why haven't it been set up here in Hong Kong.** (2)

When asked in 2007 in the legislative council, which unanimously passed the motion for a child commission, if HK had a plan of action for children's rights implementation, the government firmly indicated such was available. (3) Six years later, **we now urge the government to present it locally and internationally and work with stakeholders to formulate an up-to-date proactive plan and set up a unique platform for children.**

**The State Council of the People's Republic of China announced on 1 July 2011 a ten year Women and Children Development Blue Print 《中国妇女发展纲要（2011-2020年）》和《中国儿童发展纲要（2011-2020年）》 stipulating the significance to ensure the best interest of the child in policies and practices and urged officials from different levels to ensure such is done. Such blue print, of course only unique to Mainland China, should be inspiring in principle for the formulation of a set of proactive Child Development Blue Print and Indicators unique for Hong Kong.**

Regretfully the Hong Kong UNCRC Report (Para. 26) indicated that the Government sees no “obvious need” for a Child Commission as there are “extensive effective mechanisms” available in Hong Kong serving the purpose and any new mechanism would be a duplication. It would be important for the government to inform us here in Hong Kong and those in UN what these mechanisms are what steps they have taken and how effective they have been.

If the government sees pressing needs and unique roles for the Youth Commission (YC formed in 1990), the Elderly Commission (EC formed in 1997) and the Women Commission (WC 2001), Family Council (FC 2007), surely they should see the equally if not more pressing needs of children and make such mechanism for children unique without duplication. The above mentioned Commissions/Council though merely consultative in status with limitations has continued to receive financial and administrative support. In 2011, the Women Commission received HK\$20.7million, The Family Council received HK\$25million and the Equal Opportunity Commission received HK\$77.7million.

Moreover, Hong Kong has a HK\$600-700 billion reserve. **A part of it could have been devoted for a child commissioner/commission.** Nevertheless when it comes to children, there is “no pressing need” observed for a mechanism solely representing them, “no separate budget” to systematically ensure a child perspective in society.

Advocates locally and internationally feel strongly that **children deserve an equal if not better treatment in terms of policies, monitoring mechanisms and resource allocation**. Child Commissioner and Child Commission, now established in over seventy countries and 200 jurisdictions, are found more effective impacting changes for better and will become more of a universal trend. Hong Kong should swiftly follow suit. (4)

**The Child Commissioner/Child Commission was considered a desirable option and highly commendable by the UNCRC Committee** in the Concluding Observations, November 2005 (5). This same committee queried in the most recent list of questions for HK Government to answer in February 2013 why a Child Commission had not been established. <http://www2.ohchr.org/english/bodies/crc/crcwg64.htm> (6)

**This model has recently been formally evaluated and found effective.** The most recent Evaluation in the International Journal of Children's Rights, 18 (2010) 19-52 **Evaluating the Children's Commissioner for Wales: Report of a Participatory Research Study** is inspiring in its recognition of the positive and constructive roles and function of a Child Commissioner.

This is by far the most systematic evaluation of a child commissioner or ombudsman anywhere in Europe or indeed in the world. This is the first of such studies undertaken in partnership with children and young people.

It specifically looked into how well the commissioner's office engages children and young people, how much children and young people know about the commissioner, what impact the commissioner is having on policy and services for children and young people of Wales, how effective is the individual advice and support services and whether the commissioner has lived up to expectations.

All of the above are important questions that Hong Kong also has to answer. What are the "many extensive mechanisms" that the HK Report refers to, how have they been performing their roles and whether they have lived up to expectations. This would indeed make **an important study for**

**the Central Policy Unit to undertake and if so they must involve children in the study's design and implementation.**

It is so easy to leave children out in the cold despite the claim that we have their best interest in mind. We leave our children in the cold because often times we are too busy and there are always "more pressing or obvious issues" such as housing, aging population, combating poverty, environment preservation, cross border relationship and the long overdue political reform. All of these are indeed significant matters impacting every one of the 7 million citizens of Hong Kong and every citizen to be born and must be promptly tackled with genuine community participation!

These matters do not exclude children but unlike in many countries which attach high values and standards for a child perspective in their societies, there is a lack of a vivid child perspective here among our policy makers. **Our government has rarely truly conducted genuine child impact assessments to determine if the best interests of children have received proper attention and consideration in such policy areas.**

Would safe and child friendly policies be taken seriously in the building or reconstruction of our housing units, would a child poverty line taking children's dignity and integrity be included, would the set up of a cross-border mechanism on children/family benefit Hong Kong and the Mainland in a long run. The Chief Executive is establishing a dozen of committees to look into major areas he listed. We urge for children and young people to be included either on these committees or as advisory groups so that such committees would consult children and child advocates to adopt a child perspective in their deliberations.

Do not leave our children out. They don't have the votes nor do they have the power to make their rights heard and these make the call to appoint their Commissioner and Commission more pressing.

The Hong Kong UNCRC Report to UNCRC Committee stated that "Hong Kong enjoys a stable legal system adhering to the spirit and the rule of law."

Sadly when it comes to comprehensive legal review and legal protection of children, the Hong Kong remains conservative and hesitant. Adequate legislation has not been put in place to ensure children properly supervised and not left unattended; to stop humiliating methods and corporal punishment on children; to make child fatality review mechanism mandatory and independent and to require mandatory registration of sex offenders of children. Major reports and recommendations from the Law Reform Commission have been shelved without good reasons. **Hong Kong needs a swift and fundamental change of mind set, a comprehensive review of child related legislation and practices.**

**Hong Kong needs policy makers who are child rights advocates to take the lead.** Ensuring children's best interest respected and promoted, **we need a visionary, persistent, fearless advocate and a Hong Kong Child Commission that is independent, credible, knowledgeable, resourceful, and with dedication believing in people and mobilizing the community to formulate and implement evidence based plan of action!**

The Wales report concludes that what makes a child commissioner/ child commissions a success are: it's independence, its pluralism, its fearless advocacy, its working with the other GOs and NGOs, citizens and professionals and the motivation and contribution of the various stakeholders themselves.

The HK UNCRC Report stated that **"The legislative council, the vibrant and free mass media and citizens** would monitor the government policies and practices." If that is the case, It is fundamental that the Legislative Council, our media and our citizens should see to that the government **come up with the best option in making children's voice heard.**

Human rights should not be the luxury of a few or merely an empty slogan. Human rights should not be considered monsters or tsunami. It is the innate rights of every single soul. Ensuring such respected early on from childhood is in the best interest of mankind and must not be delayed!

Notes:

1. International Covenant on Civil and Political Rights (ICCPR) first report submitted in 1999 heard in November 1999 and its latest hearing on 11 March 2013  
Universal Periodic Review on human rights, in October 2013.  
United Nations Convention on the Rights of the Child (UNCRC) has been extended to Hong Kong since 1994. Submission made first in 1996 with a Supplementary report in 1997. First report made as Hong Kong Special Administrative Region under People's Republic of China report in 2005 and the coming hearing in September, 2013.
2. The UN in their previous concluding observation and in the List of issues (7 February 2013) to be taken up in connection with the consideration of the combined third and fourth periodic reports of China (CRC/C/CIH/3=4) requested for specification whether a comprehensive plan of Action for Children has been developed and the body responsible for the overall coordination of the implementation of the Convention across sectors and at districts and local level in Hong Kong. The UN also asked for specification reasons for the delay in the establishment of an independent Children's Commissions in Hong Kong despite the legislative Councils, June 2007 motion and a subsequent appeal by the panel on constitutional Affairs to set up such a Commission in May 2009.
3. June 6, 2007 Legislative Council Motion on Commission on the Children moved by Dr. Hon Fernando Cheung Chiu Hung was that "this Council urges the Government to set up a Commission on Children to fulfill the obligations under the United Nations Convention on the Rights of the Child, safeguard the wellbeing of children, and ensure that children's perspectives are fully taken into account in the process of formulating government policies." The legislative council in 2007 unanimously passed the motion. Nevertheless this has no legal binding power and the Government has not appointed such commission up to this date.

Dr. Fernando Cheung in the same debate asked in the panel for a plan of action on the implementation of the UNCRC and the government's answer was affirmative yet no written plan was ever presented.

4. There are at least 70 countries and 200 jurisdictions appointing Child commissioners/ombudsmen/child commissions to ensure a visible child perspective at all levels in their society. Sweden was the first to introduce a child ombudsman mechanism as early as 1800's and Norway in 1871. Wales in 2001, Northern Ireland in 2003, Scotland in 2004, Ireland (Ombudsman) in 2005, England in 2005. Sweden is the first country who banned corporal punishment completely since 1979. There are at least thirty countries banning corporal punishment by law up to now.
5. 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 Special Administrative Regions.) CRC/C/15/Add.271, 30 September 2005.
6. List of issues to be taken up in connection with the consideration of the combined third and fourth periodic reports of China (CRC/C/CHN/3-4), Committee on the Rights of the Child Sixty-fourth session, 16 September – 4 October 2013. Item 4 of the provisional agenda consideration of reports of States parties. <http://www2.ohchr.org/english/bodies/crc/crcwg64.htm>