

NGO Report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child



January 2005

By Hong Kong Committee on Children's Rights with additional views and
general support from 19 organizations working for and with children and youth

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Preface

Since the United Nations Convention on the Rights of the Child (UNCRC) was extended to Hong Kong in 1994, it is the responsibility of the Government, GOs, NGOs as well as the general public to work hand in hand to make the spirit enshrined in the Convention come true. Under Article 44 of the UNCRC, State Parties undertake to submit to the United Nations Committee on the Rights of the Child reports on the measures they have adopted which give effect to the rights recognized in the UNCRC and on the progress made on the enjoyment of those rights.

The Hong Kong Special Administrative Region (HKSAR) Government has published the first periodic report in July 2003 from the government's point of view. The report would be heard by the UN Committee on the Rights of the Child in mid-2005.

To provide alternative views, The Hong Kong Committee on Children's Rights (HKCCR) has drafted a NGO report. We strongly believe a fair, realistic and comprehensive report to reflect the state of children in the HKSAR community requires professional opinions, frontline workers' observations as well as objective views from people who care about our children. A report supported by organizations that are broad based and representative, also adds weight to the comments and recommendations made. In this regard, HKCCR has sought additional views, comments and support from other NGOs that are closely working for and with children and youth in Hong Kong.

This report would not be made possible without the genuine and sincere comments, remarks and additional views made by 19 NGOs who share the same vision on children with us. We sincerely hope that the United Nations Committee on the Rights of the Child would treasure the views made in the report. At the same time, we hope that the HKSAR Government would also consider our alternative views. Let us work hand in hand to make our children feel proud and confident to grow up in a society that treasures them and respects their views.



Dr Chow Chun Bong

Chairperson

The Hong Kong Committee on Children's Rights

List of organizations contributing to the Report

Against Child Abuse

Caritas – Hong Kong

Center for Child Development, Hong Kong Baptist University

Department of Paediatrics and Adolescent Medicine, Queen Mary Hospital

Hong Kong Association for Cleft Lip and Palate

Hong Kong Council of Early Childhood Education and Services

Hong Kong College of Paediatricians

Hong Kong Family Welfare Society

Hong Kong Federation of Handicapped Youth

Hong Kong Society for the Protection of Children

Marden Foundation Limited

Playright Children's Play Association

Save the Children Hong Kong

Society for Community Organization

Support Group on Integrated Education

The Hong Kong Council of Social Service, NGO in Special Consultative Status with the Economic and Social Council of the United Nations

The Hong Kong Paediatric Society

The YMCA of Hong Kong

TREATS

The organizations above are listed by alphabetical order.



About the Hong Kong Committee on Children's Rights

The Hong Kong Committee on Children's Rights (HKCCR) was formed in 1992, originated from a group of people concerned about children being left unattended under the auspices of Against Child Abuse. The Committee was formally established as an independent agency with charitable status in 1995. We have and are, concerned about the needs of children, and their rights to survival, protection, development and participation, which are the four main areas for which the United Nations Convention on the Rights of the Child (UNCRC) has been advocating.

The ratification of the UNCRC was extended to Hong Kong in 1994. It is always our main objectives to monitor the rights said in such to be implemented in the territory and to ensure that the best interest of our children is being concerned.

Over the years, aside from the monitoring work, the Committee has been deliberately promoting the understanding and recognition of children's rights in Hong Kong through delivering talks and training workshops, organizing exhibitions, activities and publishing relevant publications. We work with children, youth and child related professionals and we share with them our knowledge and experience in the application of the UNCRC, the rights which children in our society entitle.

By January 2005, we have the corporate membership from 11 organizations who share the same vision with us on the rights of children. These organizations include:

- Against Child Abuse
- Centre for Child Development, Hong Kong Baptist University
- Hong Kong Association for Cleft Lip & Palate
- Hong Kong Council of Early Childhood Education and Service
- OMEP – Hong Kong
- Playright Children's Play Association
- Save the Children Hong Kong
- TREATS
- Tsuen Wan Adventist Hospital
- Yang Memorial Methodist Social Services
- The YMCA Hong Kong

Executive summary of the Report

Child Policy, Child Ordinance and Child Commission

Despite the government's insistence on the contrary, Hong Kong is in urgent need of a Child Policy to give direction to the entire community, GOs and NGOs, professionals and the lay public, in matters related to children where the best interest of the child is of paramount concern. A comprehensive, up-dated Child Ordinance with uniformity in the definition of the child and consistent and coherent provisions which can adequately protect children is required. The implementation and monitoring of the fulfillment of the Child Policy should be overseen by an independent Child Commission with the appropriate power and resources to carry out its function. It is our view that the range of policies and services affecting children is too wide. The existing channels are fragmented and often only focus on the specific areas of concern, failed to address the whole picture in a comprehensive way. It is unacceptable, illogical and discriminative to rule out the call of our children, if we allow the establishment of other commissions for women, youth, elderly, disabled persons and minority groups in the society.

Dissemination of the Convention and Reports of the Convention

Child Rights should be incorporated in the education curriculum. There should be regular promotion of the UNCRC and its awareness within the community monitored with the aim of addressing areas of ignorance.

Child Participation

There should be channels to solicit children's views in matters related to them at the policy level. We urge the formation of a Children's Council as a platform and mechanism for children to voice out their concern, worries and make recommendations when there are policies changed or new policies introduced.

With the increase in divorce, separation and re-marriage of parents, children's views and wishes should be seriously considered in child custody, child care or surname change arrangements.

Child Protection

The ability of existing Care and Protection Orders to protect children should be reviewed. The emotional welfare of institutionalized children under such orders needs attention. Separate representation of children in the legal system should be the rule rather than a discretionary recommendation.

The age of criminal responsibility has been raised from 7 to 10 years old since the last report to the United Nations. But we still see the age of 10 – the age of a primary 5 student – is far too low to be accepted. We urge the government to raise it to 14 years of age and put in place the alternative measures to minimize harm done through the prosecution process.

Although the infant mortality rate remains low, there continues to be preventable unnatural child deaths and serious injuries from suicide, family violence, home accidents and abandoned babies from unwanted birth.

The increased awareness of domestic violence in Hong Kong has not been paralleled with similar awareness of its impact on the child, whether immediate or long-term. More effective measures are required in the prevention of domestic violence and rehabilitation of family members.

A systematic approach rather than ad hoc measures is needed to address the root causes of child suicide, childhood injuries, school bullying, children being involved in adult homicide/suicide, physical and psychological damage or even deaths from child abuse. A system of review of fatal and serious child abuse and domestic violence cases should be in place.

There should be legal measures to protect children from the recurrent long-standing problem of being left unattended.

A systematic approach is needed to end corporal punishment that is still widely practised and accepted in the community.

Child sexual abuse is on the rise with the increase in under-aged perpetrators warranting special attention. A legalistic approach to the problem does not always protect the children and different systems in handling intra- and extra-familial sexual abuse is not in the best interest of the children and families. Although there is legislation prohibiting unsuitable persons as child-minders, its effectiveness is in doubt. Repeated incidents of perpetrators with recognized access to children are a concern.

The interest of the child should be considered in the release of confidential information regarding children. The lack of respect for the privacy of the child by the media in reporting family tragedies should be stopped.

A central data-base on statistics related to children would facilitate planning and priority setting.

Child Health

Exclusive breastfeeding for 6 months as recommended by WHO is rare in Hong Kong. A territory-wide central committee with multi-department, professional and public input is required to promote, protect and support breastfeeding. Violations of the International Code on the Marketing of Breastmilk Substitutes abound. The provisions of the Code should be incorporated into local laws.

The Charter for Children in Hospital should be formally adopted with particular attention paid to the psycho-social, educational, recreational and participatory rights of children in hospital. Primary and community care of children should be strengthened to prevent hospitalization in the first place.

The Maternal and Child Health Centres should be empowered to widen their role and work with the newly restructured Integrated Family Service Centres to promote not only physical but emotional health and development of children within an environment of positive parenting both universally and for families in need.

Family Environment and Alternative Care

While the primary responsibility for the care of their children rests with the parents, adequate support should be offered to needy parents to perform their parenting role. On the other hand, parents of children of cross-border marriages do not enjoy the antenatal and post-natal services provided in Hong Kong although the children born in Hong Kong are local residents. This lack of service has potentially serious effects for these children. Adjustment problems abound both amongst the parents and the children when they eventually reside in Hong Kong. Family reunification needs to be facilitated and support for new immigrants enhanced.

The quantity and quality of alternative care for children need review. There is little information on the outcome of such children during or after such care.

Children with Special Needs

Children in poverty is a major concern with 11% of the children population being recipients of the Comprehensive Social Security Assistance. It is about seven times of what it was a decade ago. Many are living in crowded, unhygienic and polluted dwellings. Some of them are engaged in scavenging rubbish and discarded items to supplement their family income. The government should tackle the problem strategically to halt the poverty cycle.

The integration of the education of children with special needs and normal children is the right direction but the individual needs of these special children need attention in order to facilitate the learning of all children. Subsequent vocational training faces the same problem of lack of resources to attend to individuals' requirements be it physical or mental.

Although Hong Kong professes non-discrimination of the disabled, changes are slow in matters related to transport and access when there is resource implication.

Support for ethnic minority in local schools is inadequate creating undue hardship for these children jeopardizing their future career development.

The policy that refugee children and illegal immigrant children could not have access to formal school pending their resettlement and legal proceedings of their status in Hong Kong should be addressed.

Child Education, Leisure and Cultural Rights

Hong Kong's education system is renowned for its emphasis on rote learning and this starts in preschool despite government advice for the kindergartens to avoid such practice. Although there are 9 years of free education with an apparent low drop-out rate, the outcome of the education system can be seen by the number of youths not proceeding with further education nor gainfully employed. Developing each child's potential is only a theoretical consideration because of the large student to teacher ratio and the traditional teaching methods adopted.

The emphasis on academic achievement has taken away children's time to play. Play facilities in schools and public areas are inadequate and non-creative. Children in poverty have restricted opportunities for extra-curricular activities because of the expenses involved. A formal play service for hospitalized children should be recognized.

Conclusion

The current mechanisms to address issues related to children are seriously deficient and lack co-ordination hampering the advancement of the basic rights of the child to survival, protection, development and participation in Hong Kong. The formulation of a Child Policy should be treated as a matter of urgency. The formation of an independent Child Commission should no longer be delayed. For a child, an opportunity missed is an opportunity forgone.

Report under the Convention on the Rights of the Child

Section I General Measures of Implementation

Article 4: implementation of rights

A Child Ordinance and a Child Policy are still being considered by the government as unnecessary and would not bring about significant improvement in the promotion of the best interest of the child.

The existing child related ordinances do not reflect a consistent spirit conveyed by the UNCRC and there are discrepancies such as the definition of the child.

A clear and up-dated Child Policy reflecting the community's collective responsibilities would be useful as a direction for the entire community, GOs and NGOs, professionals and lay public, adults and children to strive for. The lack of such a policy is creating confusion and difficulties in the interpretation and thus the implementation of the notion of the best interest of the child.

The government considered the existing advisory committees and working groups as adequate channels of communication. The establishment of a Child Commission is unnecessary and undesirable. The government claimed their bureaux and departments already work closely together to formulate and implement policies affecting children, and that the range of policies and services affecting children is too wide for a single committee to manage.

It is our view that the range of policies and services affecting children is too wide. The existing channels often only focus on specific areas of concern. Even channels with multidisciplinary membership were unable to tackle such concerns in a comprehensive manner. An example is the Committee on Child Abuse which is indeed an important mechanism that monitors policies and practices in the area of child protection. However, it focuses on child protective issues only and areas outside these would not be tackled promptly. Moreover, this Committee meets infrequently. More experts from the NGOs should be co-opted to enable a balanced representation between GOs and NGOs. The government is also inconsistent in that reasons for not establishing a Child Commission can equally apply to the Elderly Commission, Commission on Youth and the Women's Commission established over the years. There is also an Equal Opportunities Commission but its focus is more on women and disabled persons.

We are very concerned that a Child Commission has not been established to ensure a child perspective in policies and practices related to children. The existing advisory committees and working groups, with their own terms of reference, are unable to deal with child right issues comprehensively.

Channels of on-going sharing sessions and debates regarding child right issues are lacking. To hold meeting(s) only for the preparation of the report to UN is passive and desperately inadequate. The only Bureau present was often only the Home Affairs Bureau, while the Health, Food and Welfare Bureau, the Education and Manpower Bureau that have close relation with children, were not always there to facilitate thorough discussions.

Furthermore, there is no mechanism to measure progress in terms of human rights development and community attitude change. We propose the government allocate on-going resources to ensure such a mechanism is established at least on a periodic basis to measure the progress and effectiveness of promotional effort.

Article 42: dissemination of the Convention

Hong Kong has not included child rights systematically in the education curriculum. There is no specific time allocated in schools to cover such concepts and information. In paragraph 15 of the government report, it was said the Education Department has included human rights topics in the guidelines on civic education. However, civic education is optional. It is up to individual schools whether they would include human rights in their teaching plans. In the guidelines, we see no specific attention given to child rights. Instead, human rights are taught in general terms only. A training manual has been developed by NGOs but it is only one among many others left on the bookshelf waiting for concerned teachers to find extra time to launch such a programme for students.

Our impression is that teachers are hesitant to teach child rights in school thinking it may upset school discipline. This clearly indicates child rights have yet to penetrate into the realities of life and training for people directly related to children (eg. parents, teachers and many professionals) is needed.

Publicity for the UNCRC has also been piecemeal and not strategic, nor comprehensive. Special attention should also be paid on how the UNCRC and children's rights could be promoted through effective materials and forms. For example, if children can truly participate according to their own will in a child friendly setting. We agree with the recommendation made by the UN Committee in paragraph 23 of the Concluding Observations in 1996. It encouraged the incorporation of questions on the awareness and understanding of the public of the UNCRC, its principles and provisions, in future civic awareness surveys. This would serve as the most powerful indicator of public awareness and understanding of the UNCRC. It would also serve as a yardstick for the administration to see what additional effort is required to promote the UNCRC. However, we have yet to see the suggestion put into place.

Article 44(6): making the report available

Although the government report was available in different formats, there was no publicity on its release. Many child-related organizations were not aware that the report was published nor did they receive any copy from the government. The dissemination of the report has been inadequate.

In paragraph 35 of the Concluding Observations in 1996, the UN Committee recommended wide public distribution and dissemination of the State Party report, the summary records as well as the concluding observations. However, many organizations had no idea about the past documents and the procedures that followed.

The full text of the government's report on the implementation of the UNCRC was sent to UN before release to NGOs or publicized in the community. There was only a consultation of the outline and topics prior to the preparation of the government report which was highly insufficient.

The report directly relates to 1.3 million children in Hong Kong. We have urged the government to provide a children's version, but this was ruled out repeatedly. The children have not been adequately involved in the updating of the implementation and the report compilation under the UNCRC.

Section II Definition of the Child

In general the child is defined as anyone under the age of 18. However in different child related ordinances, there are inconsistencies contrary to the spirit of the UNCRC. We thus proposed the government should review all child related ordinances so that a consensus for all parties be reached and a uniformed approach can be adopted.

Section III General Principles

Article 2: non-discrimination

1. Young abode seekers denied of school education

About 180 children stranded in Hong Kong for legal proceedings regarding their right of abode status in Hong Kong were being denied of school education by the government, as revealed by a series of press reports in November 2001. Some schools and church groups took the risk of breaching the civil code by allowing these children study in their schools but were warned by the government. These children, some of them have waited for years, spent a childhood without school education, playmates and without proper recognition from the society. Though all the legal proceedings involving these children have been completed by 2002, we consider the move of banning these children from receiving normal education as all the other children do, as a serious breach of the UNCRC. (South China Morning Post, November 2001 – January 2002)

2. No right of abode for adopted children

As the above-mentioned press reports continued to reveal, some of the 180 children waiting for court decision on their right of abode in Hong Kong, were abandoned children adopted by couples in the orphanages across the border. These children were denied of the right of residency in Hong Kong under the law. It is a double punishment for the impoverished children. We call on the Hong Kong government to develop close contact and exchange clear messages with the mainland counterparts on the arrangement of child adoption across the border, so as not to give the adopted children and their parents a false hope. Meanwhile, public discussion on the possibility of law reform should be conducted.

3. School placement allocation exercise

It was revealed that boys and girls were not allocated secondary school placement by the Education Department on equal terms. It was only after the Equal Opportunities Commission took legal action against the department that the matter was rectified.

Article 3: best interests of the child

1. White paper on “Social Welfare into the 1990s and beyond”

This paper was published over a decade ago. It must be reviewed to cover significant concerns that have arisen since then and others that are anticipated in the new millennium.

The current white paper recognizes that the primary responsibility for the adequate care of children rests with the parents. It focused on remedial efforts for the vulnerable and those in trouble, but not sufficiently in prevention and total reform in the community. Families have shrunk in size and are facing more challenges than they can cope with on their own.

We reiterate our urge for a comprehensive up-dated child protection policy to prevent all forms of abuse, to empower children and the community at large and to encourage their active participation. We think that the current approach had been piecemeal, reactive, remedial and disintegrated and some times, inconsistent.

The current consultation in pre-school education reflected this danger of throwing responsibilities of child care and education of the children aged between 0-3 to parents without providing an option of choice and support.

What measures the government have taken to improve the cooperation between Hong Kong and mainland China in ensuring child protection and family preservation for the split families (families separated between Hong Kong and the mainland China) as well as families traveling back and forth between the two jurisdictions are unclear.

2. Representation of children's interests in court

We recommend the government to review child related ordinances to ensure they are adequate, consistent, coherent and simple to use to ensure equal protection and fair hearing. Different ordinances currently define a child differently.

The Offences Against the Persons Ordinance has to be reviewed to make its provisions comparable with the scope included in the protection of Children and Juveniles Ordinance. At present a child can be placed under the Care or Protection Order, however, the parents are not subject to supervision. Statutory workers sometimes considered such orders give false assurance to children and the society.

There are concerns about the bureaucratic neglect of young institutionalized children who are the subject of Care and Protection Orders. The emotional welfare of these children has been ignored as they are treated like older children who have been accused of criminal activities such as engaging in the vice trade or having suspected triad links. It appears that they are regularly placed in the same room as the older children. These children felt that they have done something wrong. Instead of being protected, the Care and Protection Order is regarded as a punishment of their “wrong behavior”.

There should be legal measures to protect children from being left unattended. Part of the community still strongly rejects legal sanction for fear of criminalizing parents. Such sanction could include not only imprisonment or paying a fine, but attending parenting courses, doing community services, receiving counseling, etc. Help and resources, particularly during the economic downturn, must be injected to ease the situation in the best interest of the unattended children.

Our legal system does not provide adequate channels for consultation and participation for the children. In Hong Kong, a child is entitled to separate legal representation when such need is ‘observed’ or when a request is made. A review and proper monitoring of children in court and children under care or protection is required.

In court proceedings, the presentation of views should lie with the child instead of the judge. Separate representation should be made available for every child in need.

3. Child care and protection institutions and facilities

A review of the Child Care Centres Ordinance has made new provisions to prohibit unsuitable persons from acting as child-minders. Unfortunately these provisions are little known by the public.

Article 6: the right to life, survival and development

1. Child mortality

Although the infant mortality rate remains low, there continues to be preventable unnatural child deaths.

1.1 Deaths from child abuse and neglect

The statistics presented in paragraph 241 of the government report showed a downward trend of cases in the Social Welfare Department Child Protection Registry but this registry excludes fatal cases, e.g. deaths from homicide or homicide/suicide; deaths from children left unattended; and abandoned newborns. Cases with children exposed to domestic violence, which were defined as psychological abuses in some countries, have not been considered abuses in ours. There were signs indicating increase in such cases but they were not included in statistics. Furthermore, even cases in the Child Protection Registry have increased since the government report was published.

1.2 Deaths from homicide/suicide

Children are victims in the family dispute and family violence cases. Emotional parents killed their children before killing themselves for fear their children would be left with no one to take care of. The move is totally disregarding the right to survival of children. (Please refer to more elaboration at Article 19 in this report).

1.3 Deaths from child suicide

The number of deaths from child suicide continued to be a concern. Just in the academic year of 2003/2004, 17 school children killed themselves by jumping from buildings, burning charcoals and taking drugs, not to mention the unsuccessful attempts. School children as young as ten, killed themselves because of academic pressure and unbearable emotional problems. Indeed, various researches conducted in the recent years by different universities in Hong Kong have shown the high tendency of local young children bearing suicidal thoughts. In a recent survey of about 3,500 school children aged from 12 to 17 conducted by The Chinese University of Hong Kong, 11% of them had seriously considered committing suicide over the past 12 months. 9% of them had actually thought of how to kill themselves. 4% of them said they had attempted suicide repeatedly over the past 12 months, using methods such as slitting their wrists and taking drugs. These children commonly suffered from ailments such as headache and insomnia. (South China Morning Post, 13 April 2004)

1.4 Deaths from childhood injuries

There were an average 30 to 40 children killed in home accidents every year. These unnecessary deaths and injuries could be avoided if attention was paid to home safety. Common injuries included falling from the upper bunk or sofa, slipping over the wet surface, trapping by doors, windows, folding chairs or tables, and injury by sharp objects or gas units and many others. Public education on home safety should be enhanced.

Fatal cases of children being left unattended at home falling off buildings were not uncommon. Parents or care-takers often left babies or toddlers alone at home to go shopping. There is insufficient public education on home safety and that young children need close attention.

2. Pre and post-natal care

2.1 Maternal benefits and protection

Hong Kong has yet to adopt ILO recommendation of not less than 14 weeks maternity leave; neither has Hong Kong mandated nursing breaks for breastfeeding mothers. Awareness in the community of the right for a child to be breastfed is low as evidenced by an incident when a mother was reprimanded by a government library staff for breastfeeding in the children section of the library. There are only two Mother Baby Friendly Workplace in Hong Kong accredited by Baby Friendly Hospital Initiative Hong Kong Association under UNICEF.

2.2 Antenatal care

This is free for mothers who are Hong Kong residents. As from April 2003, women who are not Hong Kong residents although their husbands are Hong Kong residents and their children born in Hong Kong are Hong Kong residents, do not have access to free antenatal care. They have to pay much more expensive charges for their delivery in public hospitals in Hong Kong and the subsequent home visits by community nurses. In effect, those who cannot afford private health care may not receive appropriate antenatal care, discharge themselves against medical advice soon after delivery and refuse community nursing service to the detriment of maternal and child health with long term implications. Congenital syphilis is reappearing. Neonates are also being readmitted in dire condition because post-partum mothers leave hospital before they are competent in childcare. This is an example of changing government policy without a prior Child Impact Assessment.

2.3 Breastfeeding

Hospitals are still receiving free supplies of formula milk (BMS – Breastmilk Substitutes), bottles and teats and there is no time frame to the government's review of the practice. As most mothers continue to use the same formula supplied in the hospital, this is a very effective promotional activity for the formula company with hospital approval.

Other promotional and advertising activities of BMSs may not be allowed in public hospital but there is no mechanism to monitor such violations.

Although public hospitals are said to comply with the Ten Steps to Successful Breastfeeding in general, there is not one accredited Baby Friendly Hospital in Hong Kong.

Although the Department of Health has a breastfeeding policy that includes the adoption of the International Code on the Marketing of Breastmilk Substitutes, there is no legislative backing to its implementation. Hence violations are rampant. Follow-on formula is regularly promoted on television, newspapers and magazines. All infant formula companies have mother/baby clubs providing direct access to mothers.

Although the ever breastfeeding rate on discharge from maternity units reached 61% in 2003, the average exclusive breastfeeding rate on discharge amongst a number of public hospitals was only around 13% in 2003. The frequent use of supplement which accentuates the perception of inadequate breastmilk, coupled with short maternity leave and little support at the workplace, contribute to the rapid drop in breastfeeding in the early weeks of life.

There is no high level territory-wide Breastfeeding Committee as recommended by WHO that have representatives from different government bureaux, NGOs and the community.

3 Right to Health

Hospital and related charges for mothers who are non-entitled persons is creating morbidity if not mortality for the infants as outlines under “Antenatal care” above.

The failure of the Hospital Authority to formally adopt the Charter for Children in Hospital has affected the priority accorded to its implementation. During the period when Hong Kong was affected by Severe Acute Respiratory Syndrome (SARS), policy changes rarely took account of the needs of children. An example was the visiting policy. Unlike Singapore and Toronto which were also affected by SARS, visiting for parents was severely restricted. Education and recreation for the children in prolonged isolation received little attention. During the subsequent planning for improved provision of infection control facilities, the needs of children were after-thoughts despite some emerging infections e.g. Avian influenza having a high mortality in children.

4. Primary and Preventive healthcare

It is always the children whose parents who do not take them to Mother and Child Health Centres that generate the greatest concern. Around one fifth of the mothers of children born in Hong Kong are non-residents of Hong Kong. With government policy in housing, social security and healthcare discriminating against such mothers, family union for many is an ideal rather than a reality. These children who are residents of Hong Kong may or may not be taken care of locally to benefit from the primary and preventive healthcare and such programmes like the “Triple P” (Positive Parenting Programme) in Hong Kong. Problems are often discovered late to the detriment of the long-term outcome of the children – whether it is growth, development or behaviour.

5. Unwanted births

Each year 20 to 30 newborn babies are abandoned. Some babies are dead when discovered. The mechanism whereby alternate care can be provided without the need to abandon such children needs to be reviewed. The ease of arranging abortions across the border makes accurate statistics on teenage pregnancies difficult to obtain.

6. Paediatric care in hospital

The Charter for Children in Hospital though supported by all paediatric units in public and many private hospitals in principle, has not been formally adopted by the Hospital Authority due to concern on resources. It weakens the implementation of the Charter.

Resources allocated for paediatric care are still measured in terms of in-patient bed days occupied, while ambulatory and psychosocial care of children are rarely recognized despite the growing problem of new morbidities such as psychosomatic disorders, substance and alcohol abuse, deliberate self-harm, eating disorders, obesity, child abuse and neglect, and school violence.

Efforts to prevent hospital admissions are penalized by reduction in manpower and space. However, it failed to address, for example, the need of space or parents accompanying children, space for education and recreation, space so that children of similar age groups could be cared for together.

Hospital Play though rated high by many paediatric patients in a survey (i.e. jointly conducted by the Hong Kong Committee on Children's Rights and Playright Children's Play Association in June and July 2002) aiming to find out the practical needs of hospital patients, is not formally recognized as part of paediatric service.

7. Student Health Service

Students participate in the student health service on a voluntary basis. Children coming from problematic families are least likely to use the service. Hence multi-disciplinary teams from the Department of Health are visiting schools to provide psychosocial health education. It is uncertain whether the benefit will be sustained when the teams leave the schools. On the other hand there is little government support for the WHO Health Promoting School concept which aims at sustained health promotion in schools.

8. Control of communicable diseases

Chicken pox afflicted over 16,000 children per year in 2001 and 2002. Although effective immunization is available, it is not included in the routine immunization schedule of the Department of Health. Chicken pox immunization would prevent any morbidity if not mortality in children.

9. Air pollution put children at risk

It is estimated that some 2,000 people a year die prematurely in Hong Kong as a result of air pollution. The number of hospitalization days for respiratory cases has also increased by 23 per cent since 1996, a portion of which are almost certainly attributable to air pollution. A study of primary school children in two districts found significantly increased respiratory symptoms such as sore throat, cough, morning phlegm and wheeze in children living in the more polluted area, even when factors such as socioeconomic status and exposure to cigarette smoke were controlled for. Also about half of the children in Hong Kong are exposed to passive smoking at home.

Children because of their physiology and development are more vulnerable to adverse effects of pollution. Numerous studies document deleterious effects of air pollution on children. Despite their high potential for exposure and illness from environmental hazards, children have no special protections. No policy agenda exists to address potentially hazardous exposures to children. The Environmental Protection Department

(EPD) does not give us the most up to date health advice and the current method of calculating the Hong Kong Air Pollution Index does not properly protect us or our children. Also the air quality objectives used in Hong Kong are too loose compared to that used in Europe and the States forcing unhealthy airs on children.

Article 12: respect for the views of the child

1. Lack of channel for children to express views on matters affecting them

Mechanisms for ascertaining and expressing the child's views by the child must be set up at different levels, particularly to ensure their voice being heard by policy makers and legislators. At present, even in policies directly relating to children, such as education reforms, consultation only focus on teachers, school management and parents. Children being the direct users, are not being consulted. It is a clear example of not respecting the views of the child. Channels and opportunities for child participation need to be increased at all levels, particularly when new policies and practices come into existence and in the compilation, and assessment of the implementation of the UNCRC. In this regard, we urge for the formation of a Children's Council in Hong Kong

In 2003, a group of children under the UNCRC – Child Ambassadors' Scheme introduced in 2000 and three agencies concern about child right: Hong Kong Committee on Children's Rights, Against Child Abuse and Hong Kong Committee for UNICEF, with the sponsorship of Home Affairs Bureau, succeeded in conducting the first Children's Council Meeting in Hong Kong. Children were allowed to discuss, debate and make recommendations at the Legislative Council Building on policies relating to children for the government's consideration. However, it is only a project-based event. We believe children can be a greater partner of adults and the government in child-related policies, where children are capable of having constructive and fruitful discussion as their counterparts do all over the world. We urge the government to establish a permanent Children's Council in Hong Kong where children from different background, status, religion and ability can participate.

2. Children in divorce and separation cases

In divorce cases, the decision on child custody and child care arrangements may not involve the views of the child, though many decisions are made pragmatically with consideration of the parents' financial conditions and time available for taking care of the children. In some cases, the child may be disappointed and tormented by the decision.

It was said that the views and wishes of the child are ascertained having regard to his or her age, maturity and circumstances. However, it is not uncommon to find that children were not adequately informed of what is happening and the rationales behind decisions affecting them and their families.

The social workers of the Child Custody Services Unit of the Social Welfare Department and the family mediators who work with separating and divorcing couples should assess the need of their children and the feasibility to involve children in mediation process. Helping professionals involved should make opportunities available for children to voice their opinion on child custody and child access where appropriate. Age of the children should not be the sole consideration of the feasibility of their involvement in decision concerning their welfare and future plan after the divorce of their parents.

Section IV Civil Rights and Freedom

Article 7: name and nationality

It should be noted that children's voices should be heard with regard to surname change if their natural mother remarries. The stepfather of the stepchild may be eager to adopt him/her and to establish instant bonding before the stepchild is ready. He should be cautioned that damage to relationship may be done that way. The stepchild's readiness to surname change should be carefully assessed and timely help to children for adjustment in a stepfamily should be offered. Social workers, lawyers and judges involved in these cases should be trained to assess the impact of the above issues and to develop skills for helpful intervention.

Article 16: protection of privacy

In Hong Kong, a person who has parental responsibility for a child has the right to access the child's personal data (when the child is under the age of 18). In cases where relationship has broken down between a child and his/her parents or persons given the parental responsibility, or where the child needs protection due to possible harm committed to him/her by his/her parents or persons given the parental responsibility, or where a child requests that data should not be released to his/her parent(s) or the persons given the parental responsibility, the data of the child should be kept confidential after assessment by the professionals that release of the data would not be in the interests of the child. Such professionals working with the children, including teachers, child care workers, social workers, medical doctors are often unaware of children's right to protection of privacy, and the consequences of data release may have negative impact on the well-being of the child.

There has been concern regarding the infringement of privacy by the mass media contributing to adverse impact on victims of child abuse. The mass media being an important stakeholder in child protection and child right can help to disseminate important messages and concepts and impact upon the value system in the community. A delicate balance must be maintained to respect freedom of speech and protection of child and families. Media education on child right is needed.

Article 17: access to appropriate information

1. TV programmes

Children receive much information from television. Children in Hong Kong spend an average of 3 hours per day in front of the TV set. Nevertheless, current children's television programmes, especially educational TV, are outdated and old fashion. Attractive local programmes for children are limited. TV stations rely very much on imported ones that generate a different cultural context from the local community. Children spend much of the time watching programmes cater for adults rather than for children. Parents should provide guidance to their children in this respect.

2. Newspapers and magazines

Daily newspapers and magazines are very accessible to children though they are not the one to buy them. The mass media has a role in protecting the interest of children. However, many newspapers are exploiting children by reporting cases of murder, abuse, family violence that involved children in such an explicit way that cause harm to them. Some local newspapers and magazines also use sex and violence as their selling point in the market. It reassured the point that media education on child right is badly needed.

3. Internet violence and pornography

Such unsolicited materials are commonly received and could adversely affect our children's growth and development. The government should commission a hotline to receive complaints and monitor trends and prevalence regarding Internet concerns. The police hotline established since December 2003 which focused on child pornography was a good start. The hotline must be made widely known to the public, including children and their families.

Regarding content regulation on the Internet, obscene and violent materials can be easily accessed on the Internet. One example is, a brutal school bullying scene involving kicking, hitting with a chair and verbal insults in the classroom. It was circulated on the Internet in November 2003 (South China Morning Post, 6 February 2004). The victim should be protected. The unlawful behaviour should not be reinforced. The government should review the effectiveness of the self-regulatory Code of Practice and consider the introduction of law to stop this kind of material being shown on the Internet.

Article 19: abuse and neglect

1. Family violence on the increase

It has been noted that family violence cases are on the increase. In 1999, 50% of the 63 homicide cases and 60% of the 7,400 assault cases were related to family disputes. In 2001, 66% of the 66 homicide cases were caused by family disputes. From the statistics of the Central Information System on Battered Spouse

Cases and Sexual Violence Cases in Hong Kong, there have been growing numbers of newly reported battered spouse cases. In 2001, there were 2,433 cases. In 2002, 3,034 cases and in 2003, 3,298 cases were recorded. According to the Social Welfare Department figures on the spouse abuse cases handled by the Family and Child Protection Services Unit in 2003, there were 2,811 active cases and 1,767 new cases. Family and child welfare professionals observed that children from families with problem of spouse battering are likely to be victims of child abuse. From the findings of a study titled 'Study of Children Who Witnessed Family Violence' conducted by Christian Family Service Service and Chan Ko Ling of The University of Hong Kong in 2002, 67% of the 103 battered wives revealed that their husband had abused their children. Among them, 82.6% were physically abused, 65.2% were mentally or psychologically abused, and 4.3% were sexually abused. From the Child Protection Registry of Hong Kong, the number of newly reported child abuse cases in 2002 was 520. In 2003, the record showed 481 cases.

From these growing numbers of spousal and child abuse cases, professionals working with children and families should be more sensitive to detect, skillfully assess the problems and offer timely intervention. Children are dependents in these families; they are vulnerable and helpless. The Social Welfare Department has extended the 5 Child Protective Services Units to become 5 Family and Child Protective Services Units since 2000. The move aimed to help families by providing a one-stop service. However, the existence of these expanded Units does not mean that needy families are given better and more timely help. For example, the local newspapers in March 2004 revealed the case of a 7-year-old with life threatening malnutrition and continuous abuse under child protection supervision causing grave concerns. The situation was tolerated and allowed to linger on too long (South China Morning Post, 11 March 2004).

The child was abused by her biological mother who was frequently battered by her unemployed, drunken husband. This case showed the vulnerability of children who are exposed to family violence and the importance of timely intervention to stop the violence cycle. There is a need to review the handling procedures, so that victims abused by their family members will be helped as soon as possible.

Another homicide and suicide case where the father was suspected of killing his two daughters and wife to death before killing himself in April 2004, has drawn wide attention from the general public (South China Morning Post, 13, 14 & 17 April 2004). The tragedy has prompted an inquiry to the assessment and handling procedures in order to prevent similar incidents in future. This case indicated a great need to develop skills in risk assessment by professionals working with at risk families, improve the handling procedures, strengthen collaboration among professionals, and establish a mechanism for inquiry to child abuse and family violence cases for service evaluation and assurance.

It should be noted that even if the child is not the target of abuse in a family, he/she may suffer from psychological abuse through frequently witnessing the violent behaviour of his/her parents. The parent who

has committed spouse abuse and was convicted should be rehabilitated to rebuild family relationships. One suggestion by the concerned professionals is to help these abusers through mandatory counselling and/or rehabilitation programmes. Before passing a law to make counselling and rehabilitation programmes mandatory under a court order, parenting skills-training should be further promoted and developed for the abusers who have hurt their spouse and their children physically and left with them not only physical scars but also harm done to their emotions.

2. Children abused by caregivers

Incidents of abuse of infants and young children by domestic helpers and child minders appear to be on the increase. From the statistics of the Child Protection Registry, 28 children were abused by caregivers in 2001. In 2002, 31 children were abused by caregivers including 22 physical abuse, 6 sexual abuse and 2 child neglect. There should be community education and developmental/remedial programmes to promote relationship-building and problem resolution between working parents and their domestic helpers/child minders, so that the child under care would not be the target of retaliation or displacement of anger. This is more important in families with infants who are too young to report the abusive act of their carer to their parents.

Due to the low subscription rate of the occasional child care service, the government is considering to end the service. This service was introduced in the early 1990s in response to the problem of children being left alone at home. Since then such children continue to die or severely injured while unattended. Just between February and April 2004, three preschoolers plunged from the widow of their home located in high-rise buildings. The plan to end occasional child care service is not timely. The government should review why this service is not user friendly and improve the service strategically rather than use the low subscription rate as an excuse to save subvention funding. Moreover, court orders should be made for parents who fail to supervise their children properly and cause harm or death to their children. These parents should be ordered to attend parenting skill training course on a compulsory basis, or they may also be asked to fulfill tasks by community service order.

3. Central Data Bank on Child-related Data

There is no comprehensive data bank on child-related data, such as child abuse, child labour, children receiving security payments, crime committed by children and so on that could reflect the needs, problems and situation of children in Hong Kong. Take child abuse as an example, data and statistics kept by the Social Welfare Department in the Child Protection Registry do not tally with that kept by the police reflecting certain cases are missed. Cases handled are often not researched and analyzed leading to the loss of practice wisdom. Research to reflect prevalence and contributing factors are lacking. The function of the Child Protection Registry has not been reviewed since its establishment in 1986. Information recorded under the Registry needs to be revised based on understanding of various forms of cases received. The existing data are designed at a stage when physical abuse was the dominating trend. We believe a comprehensive

central data bank for child-related data and also an information centre to get access to the existing research studies and database, are essential for all parties that wish to analyze and improve children's rights in Hong Kong. The collection of reliable data and the ability to analyze that information is very helpful to stakeholders when planning support services, etc. While the media has been good at bringing issues to the fore, it is not a good practice to rely on their data and analysis entirely. Thus having a central database and a resource centre would be most useful.

4. Committee on Child Abuse

At one point, there was an attempt to amalgamate this Committee with the Working Group on Domestic Violence. It would have diluted experience and efforts spent specializing in the area of child abuse if amalgamation was accepted. Furthermore, the committee meets infrequently and should have appointed more representatives from the NGO section.

5. Mandatory Reporting

There is no mandatory reporting and a lack of its thorough debate and exploration. Some suspected cases have not been properly handled.

6. Multidisciplinary Partnership

Cases reported to the police but not established as abuse cases are often not referred or not referred promptly to relevant parties for follow up. The tragic case of a family of four as mentioned in pt.1 of Article 19 in this report, reflected that the frontline police did not even record a complaint properly when the victim had repeatedly complained at the police station. The family though known to a number of parties with a case conference held for suspected child sexual abuse but not established, was not helped during the process.

7. A Fatality and Serious Child Abuse & Domestic Violence Cases Review Channel

Following a spate of child abuse and domestic violence cases that hit the headlines of local newspapers in the recent years, many child protection activists have been advocating for a Fatality and Serious Child Abuse and Domestic Violence Cases Review Committee. The Committee is to review the causes of the tragedies and lay out measures to prevent their recurrence. The suggestion, however, was rejected by the government. In a recent domestic violence case where the father was suspected to kill his two children and wife before committing suicide, a 3-person Review Committee was set up by the Director of Social Welfare instead. The Committee, however, was not an independent committee with authority and resources to act. The Committee was also criticized by the public as not representative nor objective as the Chairperson had made comments before the investigation even started. We feel an ad hoc committee that works on a case by case basis cannot improve the welfare of children and families. It was only a show piece of the government to dampen the public outcry.

8. Procedures of Handling of Child Abuse (Revised 1998)

The voluminous Child Abuse Handling Procedures have not been properly disseminated. For example, copies of the Handling Procedures are kept at some school principals' office only, teachers are not informed of how to use the Procedures, and professionals have not received adequate multidisciplinary training to work together with the guidance of such a document. The Handling Procedures must be made available to a wider spectrum in the community, for example, by putting it online. Moreover, training workshops should also be conducted to equip the professionals with the necessary knowledge in following the guidelines. The recent public concern regarding how the church handled child sexual abuse indicated that there are still sectors in the community not familiar with the Handling Procedures and reluctant to adopt a multidisciplinary approach. (South China Morning Post, 2 May 2002)

9. Mandatory Treatment Programs

Treatment for all parties involved, victims, perpetrators and family members have been lacking in depth and effectiveness not properly examined. Mandatory treatment and rehabilitation are not in place and should be made available.

10. Wider and Flexible Sentencing Options

Wider and more flexible sentencing options such as community service order, counselling ordered by the court, should be made available to stop violence and abuse of children and ensure families' rights and safety.

11. Multidisciplinary Case Conference (MDCC)

The Procedures of Case Conferences have been revised with membership of such MDCC changed to two tiers – full participation and in attendance. We disagree with such an arrangement as we anticipate many difficulties in its interpretation and could discourage participation. Professionals involved with children and families should not be excluded from the discussion and formulation of child protection action plan for any reasons. The agreed welfare plan on the MDCC should be followed and monitored by the correspondent agency. Progresses are to be reported to the conference attendants after 3-6 months of the conference.

12. Amalgamation of Family and Child Protection Services

The Child Protection Services, Family Protection and Child Custodial Units of the Social Welfare Department were amalgamated, without prior consultation, into the Family and Child Protective Service Unit to take up all such cases. We are concerned that efforts for children should not be overshadowed by services for other parties and practice experience should not be diluted. Specialized child protection efforts should not be diluted with the assumption that our child protection system has been sophisticated and mature. There exists a tendency to focus attention on spouse and elderly abuse.

13. Integrated Family Service Centre

The restructured Integrated Family Service Centre model constitutes a three-tier service to support three different levels of prevention of family problems: primary, secondary and tertiary. It consists of a family resource unit, a family support unit and a family counselling unit which provides a continuation of preventive, support and remedial services. Better coordination and collaboration must be put in place to avoid proper help and action delayed when client facing more serious problems seek help at the wrong level and the wrong tier of service.

14. Definition of Child Abuse

Definition of child abuse is still inconsistent and lacks consensus for parties involved. The government should define child abuse broadly to include all forms that violate the child's integrity. Working definitions should be made available to facilitate prompt action and prevention. The increase in serious child abuse reports recently deserves the attention of all parties.

15. Physical Abuse

As reflected regularly in the Child Protect Registry and statistics of the Against Child Abuse, physical abuse top the list of repeated cases. Corporal punishment is still being considered desirable and acceptable. Efforts were not devoted to explore effective disciplinary and management approach beyond corporal punishment. Community has been tolerant of such harmful acts. The government is not making any move to abolish corporal punishment of children or guiding the community in this direction.

16. Neglect and Psychological Abuse

Among different forms of abuse, neglect and psychological abuse are receiving the least attention and the number of reports has thus remained low. Child neglect at one stage aroused discussion and media attention but limited resources were allocated to improve the situation. Legislating against leaving children unattended was strongly refuted. However, to more comprehensively record prevalence, various departments: fire services, housing, social welfare department, police should record unattended cases to the above-proposed Central Data Bank on Child-related Data in pt.3 of Article 19 in this report. Mutual help childcare services have not been properly supported by resources. Registration for child minders is not in place. Child and home safety curriculum is lacking in formal and informal education.

Article 37(a): the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

Violence towards children is still tolerated or condoned in the name of child discipline which such acts towards adults would be called assault. Corporal punishment infringes on child rights. It leaves physical scars and degrades a child's dignity. However, it is still widely accepted, practiced and tolerated by families and sometimes in schools, as a means to discipline children.

Corporal punishment is prohibited in schools since 1991. Nevertheless, the news depicting a female primary school teacher tearing off the earlobe of her student when she did not follow her instruction in class hit the headline of local newspapers in early 2004. The school kid needed four stitches and six days in hospital. The teacher was fined \$6,000 for assault but she was supported by a group of parents and school representatives. This incident reflected a need to educate teachers on skills of classroom management and to train them on stress management. At the same time, the response of parents and the school management also reflected the community has been tolerant of such harmful acts (South China Morning Post, 7 February 2004 & 25 February 2004)

Physical child abuse often begins with corporal punishment. The government has an obligation to ban all forms of corporal punishment in society by legal means and to develop strategies to educate the general public on alternative means of child discipline. Children adopting violent means in conflict resolution are seen in schools, and against their parents as they grow older.

Section V Family Environment and Alternative Care

Article 5: parental guidance

Although the primary responsibility for adequate care of children rests with parents, needy parents should be helped to deal with stress and develop parenting skills in order to function well as parents. To throw the responsibilities of child care and education of pre-school age (0-6) children solely to parents will greatly affect the wellbeing of children. The government has funded family life education and there are preventive and developmental programmes which are rich in quantity. However, strategies should be planned so that the hard-to-reach parents can also receive the services and enhance their parenting skills. The government should also undertake to offer safe, reliable, affordable and occasional child care services (at extended hours), education and resources for families in need.

According to the Health Department, about 95% of all local newborns received service from Mother and Child Health Centres (MCHCs) in 2000. Besides, nearly 95% children aged between 3 and 5 years old were attending pre-schools according to the Census and Statistics Department in 2002. The above figures showed that both MCHCs and pre-schools are two major settings that parents with young children could be contacted. Since early identification and intervention are important, MCHCs, pre-schools as well as Integrated Family Service Centres (IFSCs) and Integrated Children and Youth Service Centres (ICYSCs) should work closely together to provide comprehensive programmes for families with children. Pre-schools and ICYSCs can help in identifying potential cases and refer for follow-up action. On the other hand, MCHCs can serve as a resource center for parents where they can have access to various services (both medical and social related matters) under one roof. Also, the medical professionals may arrange training to be held at pre-schools and NGO-operated units for all parents living nearby.

Article 9: separation from parents

In Hong Kong, divorce cases have been soaring since the last two decades. Children are inevitably affected in a negative manner during the process of separation and divorce. In our views, we welcome the promotion of family mediation, so that separating and divorcing couples can have an option not to use litigation and settle their disputes through a specialist middleman and eliminate added pressure to all concerned parties. However, the judiciary funding for free family mediation service under the Pilot Scheme on Family Mediation had stopped since August 2003. We consider funding support should continue for those eligible and needy couples.

Nevertheless, we must note that the best interests of the child should not be just a professional jargon and the children, in some cases, are used as the bargaining chips during parental divorce. Professionals who render the service of divorce counseling, child custody assessment, legal representation, family mediation should be brought to the attention of what 'children should be the paramount concern' and 'in the best interests of children' actually mean, and realize these goals in their service delivery and professional practice.

Children from broken families should have the rights to maintain regular contact with the non-custodial, non-resident parents. Counseling or therapeutic group programmes should be offered to children whose parents are separated, deceased or divorced. Helping professionals who work with these children should be encouraged to undergo specialist training to deal with post-divorce traumatic symptoms confronting children experiencing separation and divorce of their parents.

Article 10: family unification

The government has reserved a sub-quota (48) within the overall daily quota (150) to enable mainland China mothers to bring along with them a child aged under 14 to reside in Hong Kong. This is the right direction to speed up the process of family reunion taking into consideration many Hong Kong men go to mainland China to get married in the recent decades. Special attention should be given to the offspring of these cross-border marriages. The parents, very often the mothers who only possess the Hong Kong re-entry visa, should be facilitated to re-enter Hong Kong promptly, so that the child caring and education needs of children from these split families would not be interrupted by unstable circumstances.

There should be more funding support allocated to deliver pre- and post-migration services, so that newly arrived children will be helped to live in a new environment more easily. Community education on educating the local students to accept the migrant children should be launched.

Article 11: illicit transfer and non-return

Figures provided by the Central Policy Authority showed, by the end of 2000, there were 23 incoming and outgoing cases of illicit transfer and non-return of children as a result of parental separation and divorce. Though

the number was not alarming, we have much concern on the growing number of divorce cases in Hong Kong. Education on parental responsibilities, protection of children's welfare and rights at parental separation and divorce, should be further promoted in order to prevent violation of custody arrangements and harmful action done to their children.

Article 18: parental responsibilities

Prevention and proper settlement could prevent unforeseen consequences and regrets. Parents should be encouraged to settle disputes on child custody with the help of social workers and family mediators, and should not consider settling disputes by just hiring lawyers. Community education should be stressed to educate separating and divorced couples that parents should continuously care about their children after breaking down of marital relationship. Sharing of parental responsibilities after marital separation and divorce should be jointly promoted by social workers, lawyers, family mediators, and family court judges.

Article 20: protection of children deprived of a family

1. Comprehensive Family Policy

The need of a Comprehensive Family Policy should be stressed. Reasons why the government rejected such appeal had not been convincing and there has not been sufficient attention and debate about this concern.

2. Foster care for abandoned babies

We applaud the current announcement of the increase in budget for foster care. However, in Hong Kong a child found abandoned is not entitled to foster care unless parental consent is obtained. Therefore children of very tender years were placed in institutions and deprived of the right to grow up in a new family. Such policy must be amended in due course.

3. Children receiving residential service

Staff of such institutions should receive adequate training and supervision in the management of child abuse cases in order to ensure adequate child protection against abuse.

4. Children in boarding school

School management retained low profile on children being abused by school mates in boarding schools in a wish to keep the cases from public eyes. These cases must be properly monitored.

5. Discharge plan for children after in care service

Before returning to their home after in care service, children and their family members should be helped to reunite by a carefully designed discharge plan. Social workers should be given in-service training to develop skills in preparing children clients to undergo discharge from the residence and to live in their family

again. A tailor-made discharge plan will strengthen the child's relationship with his/her family and will lessen the likelihood of the child's need for in care service in future. If a child cannot return to his/her family, a permanent placement to make the child feel secure and being properly cared for with trusting relationship should be made. It includes careful matching of adoptive parents and careful preparation for both the adoptor(s) and adoptee for the placement. If adoption fails after the child is placed, a review mechanism should be set up in order to ensure lessons to be learnt for service improvement.

Article 21: adoption

After a child is matched to an adoptive family, a careful placement plan should be scheduled to make sure that an appropriate matching and readiness of the adoptive parents and adopted child is made. There should be close monitoring of the placement with support and advice from the social workers in order to strengthen the relationships between the adoptive parents and the adopted child. If the placement unfortunately fails, a thorough review of the process should be made for improvement of future service.

Article 25: periodic review of placement

Case review is an important monitoring mechanism to ensure the child's welfare plan made in the case conference is carried out. It is also important to evaluate the effectiveness of the case review meetings and learn from experience why some of the plans cannot be realized. Evaluative study by researchers of tertiary education institutes in addition to service review by the placement organization will help to improve services and protect children who are in care.

Article 27(4): recovery of maintenance of the child

Maintenance orders for child support should be enforced by law to ensure the child's needs for daily living and proper development are met. Court order on child access and child support in terms of emotional and financial support for the child's optimal development should be enforced. Parents who have difficulties to honour their commitments should be reminded of their responsibilities and given professional help.

Section VI Basic Health and Welfare

Article 23: disabled children

1. Central Registry

The Central Registry for Rehabilitation registered 1,965 physically disabled children (aged 0-18) in 2003/2004. As the system is run on a voluntary basis, it can easily be understood that the actual number of disabled children in Hong Kong who are in need of various services are far more than that of the number stated.

2. Education

At present, physically handicapped children intermingle with mentally handicapped children in classes for both the Early Education Training Centers (aged 0-2) and Special Child Care Centers (aged 2-6). Other than the shared needs in motor training, the learning ability of the two types of handicapped children is different. We recommend that separate classes or learning sessions be designated for different disabled groups of children within a center; and provision of specialized service center(s) for physically handicapped children to be allocated in each region of the territory.

Aside from the special needs of disabled children in pre-school services, for those who will get into primary, secondary and even university education, the integration approach to merge the group into the mainstream schools is highly preferred. Other than providing the same form of education to the physically handicapped children who are with normal mentality, the arrangement also serves to enhance the future integration of the group into the community at large.

3. Short-stay and Long-stay services

Short-stay services serve to provide short-term care, enhance the users' relationships with others (families) and the community, and relieve the carers' stress in caring. It is the government's policy to strengthen such services for people with disabilities to facilitate the users' staying in the community and to avoid unnecessary hospitalization. Seven community projects supported by extra allocations are initiated in these few years. However, the projects are merely commissioned for 3 years, and the continuation of such are still uncertain. We recommend that such services should be included into the Social Welfare Department's standard service provision list. The government should solicit adequate resources to support the provision of foster care services such that children with special needs would be nurtured in a natural family environment and to minimize the effect of institutionalization.

Additional resources should also be secured to enhance the provision of respite care services for school age disabled children during weekends and long school holidays in order to relieve the caring burden of their carers.

There is a serious shortage of long-stay services for the physically handicapped. The average waiting period for such services is about 3 years. The situation has not been improved as almost no new services are launched in recent years and the discharge rate from existing services remains as low as 1% to 2% each year. We recommend the government to introduce new residential service projects to shorten the waiting time.

4. Health Care

The existing Specialized Home-based Training and Support service provides home-based training and support and also territory wide occupational therapy and physiotherapy services to people with severe

physical disabilities. However, only 1 service unit is available in Hong Kong serving the whole physically handicapped population. Expansion of such service is badly needed.

5. Vocational Training and Employment

Vocational training and employment services aim to provide a working environment specially designed for people with disabilities to accommodate the limitations arising from their disabilities. So that they can be trained to engage in income-generating work process, learn to adjust to normal work requirements, develop social skills and relationships and prepare for potential advancement to supported/open employment. However, in some of the services, namely shelter workshop and the newly formed Integrated Vocational Rehabilitation Service Center, cater at the same time different types of disability groups. With the majority of the trainees are either mentally handicapped or ex-mentally ill, the special needs of physically handicapped, for instance in assisting tools, may not be well taken. Besides, trainees' differences in mental ability may cause difficulties for the center to select appropriate job orders that suit for all. Specialized workshop(s) and center(s) for physically handicapped are needed. This serves not only to solve the difficulties induced in selecting suitable job orders, but also facilitate the group's social network building.

6. Transportation

A communication meeting between Transport Department, relevant government bureaux, rehabilitation organizations and public transportation is held quarterly to facilitate the transport operators' understanding towards the needs of people with disabilities. Most of the time, operators are cooperative and willing to make improvements. However, they become reluctant when it comes to complicated matters or money involved items. Although being the statutory body in managing all transport related matters, the Transport Department seldom exercises its statutory authority onto the operators. The progress is slow and inefficient as a consequence. We recommend to changing the role of the "Communication Group" to "Steering Committee" and granting a statutory authority onto it to allow the Committee enforce the necessary changes effectively.

7. Accessibility

Building accessibility is one of the key aspects that can truly make the society become barrier free. The Building Department in 1985 issued the Design Manual Barrier Free Access to regulating and recommending standards related to building accessibility. The manual was revised in 1997 and is presently under review. We recommend that the manual should be reviewed regularly to cope with the changing needs of people with disabilities and to integrate new technologies for improving the built environment. The enforcement and monitoring of the standards and regulations of the manual should be strengthened.

The government should take the lead to advocate the provision of a barrier free society to enhance the community involvement of the disabled children. The infrastructures of the community, recreational facilities, transportation and their accessibility should all be properly addressed. An example is the future Disneyland in Hong Kong.

8. Welfare

Disabilities Allowance (DA) has been reduced by 11% with effect from 1 June 2003. The move followed the across the board slashing of the Comprehensive Social Security Assistance (CSSA) as mentioned in Article 26 in this report. The government claimed the reductions were made in response to the continuous deflation over the years. However, in a survey conducted with 300 CSSA/DA recipients by the Hong Kong Federation of Handicapped Youth in March 2003, it reflected that the cost of the mentioned items (eg. medical fee, procuring assisting tools and transportation cost) had not followed the deflation occurred in the years.

We recommend that the items included in the Social Security Assistance Index of Prices should be regularly reviewed to ensure the Index reflect truly the living style and buying habit of the current society. A separate consideration of CSSA and DA should be made in the cut. And when any similar actions to be taken in future that the needs of the vulnerable group should be considered individually.

9. Cultural and Recreational Activities

There are 6 Social & Recreational Centers providing activities for physically handicapped in Hong Kong. The service has been frozen for years. It is estimated that there are more than 100,000 physically handicapped persons in Hong Kong, although under the voluntary registration system of people with disabilities, only around 39,000 people are registered. The service demand of such centers is undoubtedly high. We recommend that the government should consider new service projects and extra funding to the existing ones.

To promote social integration among the able and disabled through recreational activities, community projects like the Junior Gateway Clubs and Adult Gateway Clubs should be further enhanced with adequate funding support. Appropriate resources should also be allocated to appreciate and develop the talent and potential of the disabled in performing arts and sports activities.

10. Representative of People with Disabilities

Representative(s) from people with disabilities should be invited to be member(s) of all consultative committees organized by the HKSAR Government, so that voices of the group can be heard at all levels.

Article 26: the child's right to social security benefit

By March 2004, 120,757 children or 11% of the children population were the Comprehensive Social Security Assistance (CSSA) recipients. It is about seven times of what it was a decade ago. These figures reflect a worsening problem of child poverty that demands our urgent attention. Facing the economic downturn in the recent years, social security benefits have been slashed twice since 1999 by the government putting the deprived children further in hardship. On average, a four-person household has suffered a 40% cut in total security payments in the two reviews and the adjusted standard rates amount to a mere \$5,090. The monthly payment to cover the living expenses of a child is only \$1,273.

Article 27: standard of living

Hong Kong was reportedly having the biggest gap between rich and poor among the world's wealthiest economies and the number of children in poverty has been increasing in a pace that worries the community. Many NGOs and academics have repeatedly called for attention and measures to tackle the problem. Nevertheless, in paragraph 331 of the government report, the government still considers a policy to eradicate poverty strategically as unnecessary. At present, the government has no definition of poverty and no poverty line is drawn hiding the growing problem in veil.

According to the survey of the "Livelihood and Expectations of Children" conducted by the Hong Kong Council of Social Service (HKCSS) in late 2003, nearly 265,831 children or 24% of the children population aged below 14 were living in low-income families. These families' monthly household income was only half of the overall median household income in Hong Kong (i.e. \$9,300 for a 3-4 person household).

Although paragraph 321 of the government report says children are eligible for public housing that are well-equipped with many facilities, a survey conducted by the Society for Community Organization (SOCO) in 2003 showed that around 30,000 children are now living in small partitioned rooms, bedspace apartments (caged homes) and the like with their safety poorly monitored. Their average living area per person is only 22 square feet and the smallest among them a mere 10 square feet, a far cry from the standard of 70 square feet set by the Housing Authority. Children living in such dwellings have to share facilities such as toilets and kitchens with other tenants. The mode of living is extremely unfavourable. Furthermore, these places always suffer from poor hygiene, unsafe vicinity and heavily polluted environment. (Reference: Survey on the Living Standard of the Children on CSSA (Comprehensive Social Security Assistance) conducted by the Society for Community Organization (SOCO) in 2003)

Though Hong Kong is a small place, the fact is many children never crossover to other districts because they could not afford the transport fare. It largely limits the opportunities of children to participate in activities other than the district that they are residing. At present, only the Mass Transit Railway offers concessionary fares to all school children. Other transport bodies only offer concessionary fares to children up to 12 years old. As a result, secondary school students tend to be seriously affected (Please refer to more elaboration at Article 31 in this report). We call on the government to give pressure on the transport bodies under their monitoring role to provide more concessionary fares to students.

The adverse effects of poverty on the children's psychological developments and self-image are almost irreparable. Many surveys showed that children in poverty have lower self-esteem. They rarely participate in extra-curricular activities. On the other hand, they share the worries of their parents on their financial difficulties. Many of them participate in scavenging and receive food handouts. These children live in poor living conditions that hamper their physical and psychological development. (Reference: Survey on the Living Standard of the Children on CSSA (Comprehensive Social Security Assistance) conducted by the Society for Community Organization (SOCO) in 2003)

Section VII Education, Leisure and Cultural Activities

Article 28: right to education

1. Educational Provision

1.1 Pre-primary education

The investments in children are vital for the future development of a society especially when we are having such a low birth rate. Providing quality care and education for children in their early years would lead to positive outcomes at their later stage of life. The government should undertake the responsibility to offer reliable and affordable pre-school education to families in need. Moreover, government should also help to promote a correct message to parents and avoid over-drilling of their young children.

1.2 Drop out rate

The government provides nine years of free compulsory education, from Primary 1 to Secondary 3, to children and youth in Hong Kong. The government report indicates that in the year 2000/2001, the drop-out rate was 0.18%. It does not provide detailed statistics about enrolment by level of education, as does the report of the Ministry of Education in Singapore. According to their statistics, in 2000/2001, 100% of youth were enrolled in schools after finishing Secondary 3. The comparable percentage in Hong Kong was 92% (<http://www1.moe.edu.sg/esd/index.htm>).

1.3 Unemployment rate for youth

The definition of the child in the UNCRC includes young children (birth to 6 years), primary school-aged children (7 to 12 years), youth (13 to 15 years), and young people (16 to 18 years). At present, the government normally provides vocational training for those who cannot proceed to higher forms after Secondary 3 (15 years). The kind of vocational training offered does not emphasize personal and talent development, and does little to enhance young people's employment opportunities. At present the unemployment rate for the 16 to 18 years age group is about 20% (<http://www.dphk.org/news/020721.doc>).

1.4 Special education

In the area of special education, under the principle of integration, the government's Education and Manpower Bureau encourages students with special needs, including children with learning difficulties and those with special gifts and talents, to be educated in mainstream schools. We are concerned about the extent to which teachers are able to cater for individual differences among children within the same educational setting. We wish that there were more opportunities for continuing education for teachers to provide curriculum tailoring. Promoting inclusion in what was a highly segregated school system is not an easy task and requires the support of students, teachers and parents. Furthermore, community acceptance of the principles of integration and inclusion can be enhanced through more public education.

1.5 Campus violence

Children should be free from the threat of physical, sexual and psychological abuse on campus, and efforts should be made to eliminate such incidents from happening to assure school children of a safe environment to learn and develop optimal growth. A recently released research study by the Chinese University of Hong Kong and Heep Hong Society revealed that of the 174 students in 13 regular and special schools surveyed, 33% of the respondents said that they had been bullied by their fellow students in the past 3 months. The forms of bullying include name-calling, sarcastic remarks, threatening words, beating, and kicking. 16% of the respondents also said that they were sexually harassed. The researchers concluded that the percentage of the number of victims is higher than those found in similar survey reports conducted in the UK, USA, and Canada. This report reflects a growing problem on campus. In February 2004, the news of a spate of school violence cases alarmed parents, teachers and related helping professionals. Attention should be paid to enhance the sensitivity of the school-based professionals in identifying the perpetrators and their skills in handling such incidents, and the awareness of the role modeling effect of family members. A structural mechanism, provided with guidelines should be in place to better support schools in handling campus bullying. The reported numbers should be transparent to the public to assess the size of the problem so that strategies can be formulated to protect children from bullying. Safety in campus should be promoted to help children grow in a safe, nurturing and caring environment.

1.6 Suicide of school children

Child suicide has been discussed in pt.1.2 of Article 6 in this report. School personnel and school social workers are required to take preventive measure to help students, and family social workers and family doctors need to alert parents to detect at-risk emotional and behavioural signs of children and to help them before their problem intensifies.

2. Expenditure on Education

According to a government report, expenditure on education comprises 23% of total government expenditure (4.1% of GDP), and was the highest item of expenditure in the 2000/2001 Budget. This represents a substantial increase compared to education expenditure in 1990/1991, and reflects a trend of increasing expenditure on education. However, unlike other comparable Asian cities, there is no legislation that commits the government to designate a minimum amount of its expenditure to education. Article 164 of Taiwan's Constitution, for example, states that "expenditure on educational programs, scientific studies and cultural services shall not be, in respect of the Central Government, less than 15 percent of the total national budget; in respect of each province, less than 25 percent of the total provincial budget; and in respect of each municipality or hsien, less than 35 percent of the total municipal or hsien budget" We have no intention to put an equal sign between the expenditure on education and quality of education. But the case strongly illustrates how a stable spending on education can affect the long-term strategies on education that affect the school children directly. (<http://140.111.1.22/english/>).

Article 29: aims of education

Shortly after the 1997 resumption of Chinese sovereignty over Hong Kong, the government undertook a comprehensive review of the education system to enhance the overall quality of education services. The first stage of this review, conducted in 1999, focused on the aims of education. The second stage examined how the existing academic structure, the curricula, and the assessment mechanisms could be improved to meet the aims of education. The third stage culminated in September 2000 when the Education Commission issued its reform proposals.

These proposals encourage the holistic development of children and aim to decrease the overriding emphasis on academic achievement that has characterized the Hong Kong school system. However, the various policies in the educational reform have not always worked together. For example, the policy on medium of instruction has not reduced the emphasis on academic achievement.

Until 1997, secondary schools in Hong Kong were free to choose the language used for classroom instruction. Most had opted to use English as the Medium of Instruction (EMI). In response to complaints about declining Chinese and English standards among students in Hong Kong the then Education Department conducted a review of language policy in Hong Kong. Following the Guidance on Medium of Instruction issued by the Education Department in early 1997, which firmly advised secondary school teachers to use Chinese as the Medium of Instruction (CMI), the majority of secondary schools switched from using English to using Chinese as the medium of instruction from September 1998. Currently, only 114 schools are permitted to teach through the medium of English.

To provide a more concrete example, of 100 Secondary 5 students, about 23 are enrolled in schools where English is the teaching medium, while about 77 are enrolled in CMI schools. Out of these 100 students, only 25 can receive university education, and the vast majority of these are students from the EMI schools. EMI students have tended to record higher levels of academic achievement than CMI students. Hence, parents tend to prepare their children for EMI schools.

This over-emphasis on academic achievement has also been recorded in the Inspection Report of the Quality Assurance Branch of the Education and Manpower Bureau, based on their visits to 30 kindergartens. The report noted that about one third of the kindergartens put too much emphasis on rote memory, dictation, tests and examinations, and that young children are required to start writing and copying at too early an age. In all fairness, the government has been advocating child-centred practices, and in 1999 the erstwhile Education Department published a list of “Dos and Don’ts” for kindergartens. The list of “Dos” includes providing a curriculum that covers moral, cognitive, physical, social, and aesthetic aspects of development by organizing activities that promote all-round development; organizing various child-centred learning activities; using the children’s mother-tongue as the language of instruction; and respecting individual differences. The list of “Don’ts” reflects the Hong Kong context: Don’t ask children in Nursery Class (3-4 year olds) to write; Don’t ask children to do mechanical copying

exercises; Don't adopt a one-way, lecturing form of teaching; and Don't design a curriculum that is too difficult for children. However, it is obvious that the mere existence of such guidelines does not always ensure good practice. They need to be backed with measures that ensure implementation.

(http://www.emb.gov.hk/FileManager/EN/Content_756/KG_AnnualReport_0203.pdf)

Article 31: leisure, recreation and cultural activities

1. Low activity level of children

The government's Leisure and Cultural Services Department organizes a variety of recreation and play activities for children and youth. However, the range and frequency of these extra-curricular offerings can be enhanced. As evidence of the need for this, the Hong Kong Baptist University conducted a study to investigate the daily activity level of young children in Hong Kong. Children wore a pedometer over a period of time. Results indicated that the average number of steps taken by kindergarten children was a little over 10,000 each day in the week. Children were more active during the weekend with approximately 14,500 steps per day. The World Health Organization recommends that preschool children have an activity level corresponding to a daily average of 13,000 to 16,000 steps, something Hong Kong's children achieved only over the weekend. In terms of their activity level, young children in Hong Kong fell at the 60 percentile. The levels of physical activity of Primary 2 and Secondary 5 students were also unsatisfactory. They spent most of their leisure time watching television and playing at the computer. It emerged from a study on children's play behavior during school recess, jointly conducted by the Playright Children's Play Association and the Center for Child Development of the Hong Kong Baptist University in 2003, that play facilities in schools are badly inadequate. In some schools, only hopscotch is available. School children indicated that they would like to take part in sport activities and group play during recess. Another study by the Hong Kong Federation of Youth also showed that the majority of young people (70% of those aged between 15 and 24) did not take part in any cultural activities, such as going to the theatre.

(<http://0-libwisesearch.wisers.net.hkbulib.hkbu.edu.hk>)

Schools and parents should be encouraged to provide their children with more opportunities for extra-curricular recreational and cultural activities, and schools should also integrate various art and recreation activities into the formal curriculum.

2. Children in poverty deprived of recreational activities

We have special concern on the low level of recreational activities participated by children in poverty because of their undesirable family situation. According to the Survey on the Living Standard of the Children on CSSA (Comprehensive Social Security Assistance) conducted by the Society for Community Organization (SOCO) in 2003, only about 50% of children coming from low income families participated in extra-curricular or recreational activities in school or outside school, compared to 75% for other children. It undermines their normal physical and psychological developments.

3. Accessibility to quality play environment

The major concern in the Hong Kong community nowadays regarding about the quality play environment provision for our children is playground safety and its developmental value to our children. Public playgrounds in Hong Kong are mainly provided in public parks, shopping malls, and various housing estates. The variety of play equipment in existing playgrounds is very limited and cannot meet the needs of children who are looking for variety, accessibility, choice, adventure and play aspirations. Common play items are just multi-play structure, rockers, slide and swing. Rotating items have almost disappeared in playgrounds, sand play is seldom found, and ball pool play is no longer welcome by parents in playrooms after SARS in 2003. Meanwhile, the over focus on safety by the playground management results in playground provision with low developmental value for children.

4. Opportunities to quality play in family and school settings

Children should have the opportunities to enjoy quality play provision in their schools and living community. "Play Pattern of Primary School Children in Hong Kong" - a study by Playright Children's Play Association conducted in 1999, aimed to explore the play activities of primary school children in their leisure time. The results showed that electronic games, ball games and practice play were the most frequent activities in which children were engaged. These activities require little imagination or creativity. The study urged that parents should receive education about the value of play to their children's personal growth. They are also encouraged to spend some time every day to play with their children. Parents' and caregivers' lack of knowledge and acceptance of play are detrimental to the quality play opportunities of children.

(http://www.playright.org.hk/play_pattern.pdf)

Parents' and caregivers' acceptance of play in school was evidenced in "A Study of Recess and Play in Primary School", a research conducted by Playright Children's Play Association and the Center for Child Development of Hong Kong Baptist University in 2003. Results showed that parents and teachers supported the value of play in child development. The teachers also showed a stronger faith in the positive impact of play on academic performance. Both teachers and parents agreed that schools should review the quality of play provision in schools for the children. In the study, recommendations on recess arrangement and facilities were also put forth for the school administration to consider. Both school authorities and the government were advised to further look into the play opportunities provided in primary schools to ensure that the allocation of time, facilities, and varieties for play in school settings fit the needs of children.

5. Play opportunities for all children with or without sickness

Every child has the right to play whether they are healthy or sick. It is believed that play not only reduces stress and anxiety of sick children, but also promotes their healthy development during their illness. Apart from quality medical care for the sick children, their psychological care through play is also important. During the outbreak of SARS in 2003, no relatives were allowed to visit the sick children in the hospitals when their

psychological need was even more crucial than usual. Through play, the play specialists can effectively reduce children's anxiety during hospitalization. Even though the importance of play for the sick children is highly recognized by frontline medical and nursing staff, the Hospital Authority has not committed financial support to the service. Some hospitals have been providing limited play services from qualified Hospital Play Specialists using outside resources which are unfortunately unstable.

In view of the value of play for hospitalized children, it is strongly advised that government should look into the well-being of the sick children in hospital to ensure their social needs and play needs are satisfied.

Section VIII Special Protection Measures

Article 22: refugee and illegal immigrant children

1. Last Vietnamese Refugee Camp Closes

After 25 years of operation, the last Vietnamese refugee camp in Hong Kong was closed on 30 May 2000. In February 2000, Hong Kong gave almost 2,000 remaining refugees the right to become Hong Kong residents and provided some basic assistance.

2. Refugee children in Hong Kong

As of 31 August 2004, there are 41 refugee children aged under 18 in Hong Kong according to the UNHCR Sub-office in Hong Kong. These children are awaiting resettlement to a third country after their parents were granted refugee status. The process of resettling could take months to years. These children are not allowed to attend local schools under the existing practice because they are not treated as Hong Kong residents. If they could afford, they could go to private schools but this is unlikely. As a result, many children are idling at home with no school, playmates and friends in a world completely strange to them. Some NGOs are now providing tuition class to these children, however, we believe children should be allowed to go to school where they could explore and learn with children of their same age. The government should change existing policy to allow these refugee children to go to school. (South China Morning Post, 21 June 2003 & 1 July 2003)

3. Illegal immigrant children from Mainland China

Further measures need to be taken to address the issue of illegal immigrant children from China, especially with respect to the difficulties, arising from family separation between Hong Kong and China. The Basic Law gives the right to a child, of a Hong Kong resident, to be resident in Hong Kong after July 1997. In the light of the best interests of the child, urgent actions should be taken to reduce the waiting period for family reunification and to raise the quota of permits.

Only 66% (1,020) of mainland children on recognizance were admitted into local schools during the four school years from 1997 to 2001. Any child, regardless of immigration status, should be eligible for free primary and secondary school education. Denying children an education right imposes discrimination against the children and punishes them for the acts of their parents, since the children had no choice in entering Hong Kong.

The issue of having pregnant mainland Chinese women come to Hong Kong to have their babies remains unresolved. Greater effort should be sought to stop the incarceration of pregnant illegal immigrants to avoid the situation of keeping the babies in prison with their mothers.

Article 30: children belonging to minority or indigenous groups

According to the 2001 Census, a total of 343,950 persons were classified as ethnic minorities, constituting 5.1% of the total population. Over 56% of them were Filipinos and Indonesians. The figure includes foreign domestic helpers. Persons under aged 15 were 82,724. The school attendance rates of ethnic minorities at the primary (aged 6 - 11) and secondary (aged 12 - 16) school age groups were very close to 100% as a result of the implementation of the 9-year compulsory education in Hong Kong. However, for those in the kindergarten, matriculation and tertiary education age groups, the school attendance rates of ethnic minorities were slightly lower than the rest of the population.

The 2001 Census also indicated that the population of South Asian migrants was on the rise. Despite the significant number of South Asian minorities, they remain largely invisible in the mainstream culture. Although they may attend affordable public sector schools in Hong Kong under current education policy, quite a lot of South Asian children do not have school places. In addition to the lack of resources for adapting and integrating into our society, they tend to become the victims of discrimination in Hong Kong. The rejection of and discrimination against South Asian minority youth may seriously jeopardise the youth's mental health and the formation of identity, failure of which affects their later growth. Many of the South Asian youth in Hong Kong lack close local playmates regardless of whether there are local students enrolled in their schools. There appears to be protective factors, such as good social relationships and high achievement motivation, and risk factors, such as language barrier and racism that influence the adaptation of the South Asian youth into Hong Kong society. Discrimination may discourage minority students from working hard in school because they do not perceive the long-term benefits of education. It is important for the South Asian youth to capture Chinese language to facilitate their long-term personal and career development in Hong Kong. Minority youth also tends to have less desirable employment opportunities in the community. Recreational and educational activities that provide chances for intercultural co-operation, build supportive social networks and enhance mutual understanding should be strongly reinforced.

Article 32: economic exploitation, including child labour

Although the Employment of Children Regulations prohibits young children work in industrial and non-industrial establishments in Hong Kong, children in poverty collected paper cartons and empty cans on the streets and at buildings after school to help ease family financial burden deserve our attention. These children also tend to join the workforce earlier than the other children do, or have to work part-time jobs after school. (Reference: Survey on the Living Standard of the Children on CSSA (Comprehensive Social Security Assistance) conducted by the Society for Community Organization (SOCO) in 2003)

Article 33: drug abuse

Figures on substance abuse by youth in Hong Kong are misleading. There needs to be co-operation with Mainland China to tackle the problem of access to drugs across the border by our youth. The government should enhance coordinated efforts across the border on effective law enforcement. Adequate resources should be provided to develop youth-interested facilities and activities to reduce our youth's desire for cross-border illegal drug activities. Regular researches should also be conducted to grasp the updated picture of the phenomenon, so that a timely and clear direction on combating the problem can be drawn up.

Article 34: sexual exploitation and sexual abuse

1. Child Sexual Abuse

The increase in child sexual abuse (CSA) reports and the increase in the under-eighteens as abusers deserve attention. The government should define child sexual abuse broadly to include all forms that violate the child's sexual integrity. Working definitions should be made available to facilitate prompt action and prevention.

Furthermore Hong Kong has been adopting a legalistic approach in handling the problem. Much effort has been devoted to investigation and prosecution. The strong legal emphasis on not "contaminating" evidence tends to affect how and whether people talk to the child about the abusive incident and sometimes may delay support and assistance.

The "one problem two systems" handling approach of CSA is undesirable. The police's Child Abuse Investigation Unit handles CSA of family members and serious physical abuse, while Criminal Investigation Department (CID) handles CSA of non-family members and other forms of abuse as a result of resource and manpower limitation. One consistent system with properly trained staff and supported professionals in the handling of all forms and degrees of child abuse, by any party, is essential.

2. Child Pornography

The government has been trying to legislate against child pornography and child sex tourism since 1998. However, there was resistance among legislators to include possession, virtual, audio depictions, writing and drawings. There were also lengthy debates as to the balancing of freedom of art and protection of children from child pornography. In September 2003, an owner of a tutorial school, also a male paedophile, was found sexually abusing young girls enrolled in his school. The girls were made to take naked pictures, filmed and made into VCDs (South China Morning Post, 14 August 2003). This case shocked the general public, particularly parents, who trusted tutorial schools to take care of their young children. The Prevention of Child Pornography Ordinance was put into effect on 19 December 2003. Meanwhile, the government should consider introducing a law on prohibition of convicted offenders from working in child-related organizations/ companies. These offenders should also be required by law to undergo compulsory psychological and counselling treatment.

In a survey report “Exploring the Impacts of On-line Activities on Junior Secondary School Students” published by Against Child Abuse on 30 September 2004, it indicated that a large percentage of respondents have received pornographic information on the net. Some even received materials about child pornography. When asked if they were aware of the Prevention of Child Pornography Ordinance, many of them said they were not aware of the content details including the fact that possession of such materials is illegal. Some of them may be violating the law by saving and sending such materials. Furthermore, the children respondents said they would not consider using the hotline as they do not want to cause trouble to their friends. We urge the government to raise public awareness on the Ordinance and provide education to both parents and children.

3. Vice business

In police raids at karaoke bars and Internet cafes, young school girls were found providing sex service to customers. We are concerned that deterrents are not strong enough to prevent unscrupulous operators of such businesses luring young children into their system.

Article 35: sale, trafficking and abduction

While reviewing this article, the comments made in Article 11 of this report: ‘illicit transfer and non-return’ should caution us the harm done to children if there are disputes between their parents on child custody rights and/or child care arrangements after marital and family relationship breakdown.

Special attention should also be made after learning the lesson of a still missing mentally retarded teenager who crossed the border of Hong Kong, entered Shenzhen by himself without being noted by the immigration officers. The negligence of the immigration officers reflects loopholes in operation which need to be filled in order to prevent missing child, child abduction and trafficking of children. The government has to work closely with the security department of mainland China in order to stop tragedy of the similar kind from recurring.

Article 40: the administration of juvenile justice

In paragraph 19 of the Concluding Observations, the Committee viewed the low age of criminal responsibility (7 years of age) in Hong Kong as being not in conformity with the principles of the UNCRC. Together with many NGOs and professional groups, we urge that the age of criminal responsibility be raised from 7 to 14, to be consistent with child psychological theory and child protection policies. This would also be consistent with the legal situation on the mainland of China and in Taiwan. However, the government has not accepted this proposal and it has suggested that raising the age “would encourage adult criminals to make use of young people to commit crimes.” The government raised the age to 10 in March 2003. We strongly view the age of 10 (i.e. the age of a primary five student) as being far too low to be acceptable.

The government appears to have taken an administratively convenient and minor step by raising the age to 10, mainly because there has been a relatively small number of prosecutions of children under the age of 10 in the past years. This does not demonstrate a sincere approach to the protection of children, nor does it address the proper age of moral understanding of children.

We urge the government to put in place the alternative measures to prosecution for handling unruly children irrespective of their age to minimize harm done through the process and consequence of criminalization. For example, the introduction of Family Support Conferences to draw together the unruly child, his/her family members, welfare agencies and police to formulate a follow-up service plan to provide greater support for prevention of any re-offending behaviour is a good direction. It is most important to ensure all those under the age of criminal responsibility are followed up well by offering support services.



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TREATS

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