

香港兒童權利委員會
THE HONG KONG COMMITTEE ON CHILDREN'S RIGHTS

**Written views on the issue of whether there was a need to criminalize
the act of parental child abduction**

Child Abduction is a serious matter that impacts the child, the parent, the family and ultimately the society and thus deserves comprehensive proactive action in the matter's handling and prevention by the entire community.

The Law Reform Commission's report is thorough and recommendations sound. However there is too much delay (more than a decade since 2002) by the government in putting it up for action. Prompt action must be swiftly taken to ensure relevant parties informed, children and families adequately protected.

"Child Abduction" as defined in the Law Reform Commission of Hong Kong Executive Summary means the taking away of a child without consent or lawful authority from a person who has the right to care for him. Is there any relevance of this on the joint parental responsibility model introduced recently?

In view of its very serious nature of child abduction (as in some cases, there are the use of force and violence resulting in adverse impact on the victim and family), to my understanding, some societies such as Canada, England and Wales, some States in America, New Zealand acquire both Civil and Criminal Law to deal with the matter despite the argument that Criminal Law may have undesirable effect such as intimidating the abductor from returning the child and the time and procedures involved in the judiciary process may cause complication and delay or jeopardize the return of the child.

Child Abduction in Australia is not a crime and the Coalition of Parents of Abducted Children in Australia supported a campaign led by their Family Law Reform Association (FLRA) for the introduction of new laws to protect children from being abducted in Australia. They urge the society to understand their pain and their children's trauma and appealed to their government to criminalize this shocking crime and this extreme form of abuse.

Criminal law attaches a sanction to the seriously irresponsible action of the abductor. It acts as a deterrent, may even have a preventive effect and to reduce repeating abductions. In the case of England, instead of having a blanket coverage, they attach a number of defenses and qualifications to the offence.

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If Hong Kong decides not to criminalize child abduction, the community would need to be convinced that a strong and competent protective system is put in place to educate, counsel, to rehabilitate and follow up on the identified cases to reduce the risk of re-occurrence of such episodes in the best interest of the child.

It is important to extensively improve family solidarity and to increase parental education and support, especially from head start so that parents acquire knowledge, skills and know their rights and responsibilities. At the present moment parents may not be adequately informed and equipped of social and legal support if they encounter disputes in a child's custody or care, and thus in cases of difficulties may not be bringing promptly such to the attention of relevant government and civil parties for help. This may be one of the possible reasons of the low reporting rates of child abduction locally, internationally and especially cross border.

Education to prevent abduction is essential: It is important to understand the trauma caused to children and the other partner and promote widely the amended ordinance.

How would the government ensure adequate training for relevant professionals in prevention and remedy. In the past, social workers, health care personnel, police and law enforcement parties have been more frequently involved in child protection training and exchange programs, personnel from the judiciary and the immigration have not been as frequently involved in multidisciplinary training and conferences.

Child Abduction between Hong Kong and Mainland must be discussed and measures put in place despite the low number of reports observed. Low or even no number does not mean the problem does not exist. Parents from both sides may not be aware of their entitlements and the legal protection they and their children enjoy.

What happened to the 1 criminal case handled by the HK, SAR. How was that handled?

Any plan for China to rectify the Hague Convention?

The fundamental concern should be to cultivate love, care, cohesion and support in the family especially from head start with the coming of new born babies. Home visitation support to ensure child safety and quality care and to promote family solidarity and couple participation deserve resource allocation and support. There are concerns that the Comprehensive Child Development Services is not receiving adequate attention, resources and support to be rendered to every needy child and family. The government should respond to such concerns promptly.

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We continue to urge for a Child Commission and a Cross Border Mechanism to more thoroughly represent children and families in significant matters such as this one.

Hong Kong Committee on Children's Rights
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