Submission to
Legco Subcommittee on Children's Rights
on
Support Measures for Children from Drug Abusing Families

Preamble

How children grow and develop is an interaction of nature (genes), nurture (experiences/environment) and nutrition. Children in families with drug misuse face a multitude of challenges.[1] Their physical growth, health and development may be affected before and after birth. They may also face numerous other problems including erratic parenting styles, inadequate supervision, poverty, abuse and neglect, multiple changes of carers, toxic substances in the house, difficulties in schooling and socialisation, and illegal activities. On the other hand research has found ten adverse childhood experiences – emotional, physical and sexual abuse, domestic violence, household substance abuse, parental separation or divorce, household member being incarcerated, emotional and physical neglect - being associated with chronic ill health, risky behaviour, low life potential and premature death.[2] The risk escalates when the child had more than one such experience. It is not difficult to see that children in families with drug misuse, more often than not, face multiple adverse experiences with compounding effect. Physiologically, this is well explained from research on toxic stress and its impact on brain development that is normally particularly rapid in the first few years of life.[3]

Scale of the problem

In order to plan support measures, we need to know the scale of the problem. The previous chairman of the Panel on Welfare Services asked the Social Welfare Department (SWD) a series of background questions in May 2016 in relation to the death of Yeung Chi-wai, a five year old with special needs from exposure to drug misuse. It is most unfortunate that no information is available on the number of pregnant women who misuse drugs in Hong Kong. While the Comprehensive Child Development Services (CCDS) started in 2005 have often been quoted as the answer to early identification of at-risk pregnant women (including drug misuse) and hence at-risk children, there is no information on how many such women have been identified and children served. Information should in fact be collected not only through antenatal care of pregnant women and CCDS but also adult services for drug abusers as to how many dependent children are being affected. As awareness of the issue heightens there may be more infants and children screened for drug exposure while under medical care

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[1] AMCD inquiry. 'Hidden harm' report on children of drug users. 2011 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/120620/hidden-harm-full.pdf Accessed 19 December 2016

[2] Adverse Childhood Experiences. CDC. https://www.cdc.gov/violenceprevention/acestudy/index.html Accessed 19 December 2016

[3] Shonkoff, JP and Philips, DA. From neurons to neighbourhoods: the science of early childhood development. National Academy Press 2000. https://www.nap.edu/read/9824/chapter/1#ii Accessed 19 December 2016

when there are suspicious circumstances. There is a need for a co-ordinated system of collection of relevant data.

Supportive measures

Supportive measures to the children starts with measures in the antenatal period through their mothers, engaging the pregnant women in quality treatment programmes, resolving her other health and social needs, encouraging her to bond with her unborn child with forward planning regarding childcare arrangements depending on her past and current history. All these require collaboration between knowledgeable and skilled professionals who have the time to perform their role and quality programmes being available and accessible.

It is noted that the revised Procedural Guide on Handing Child Abuse Cases[4] recommends multidisciplinary case conferences (MDCCs) be "conducted as far as possible unless under exceptional situations." There had been a reluctance to hold MDCCs for welfare planning when there is potential for serious harm when an infant is born to a mother with drug misuse. It is hoped that this reluctance is now lessened. Still the risk assessment of such families involves more than the general capacity for parenting with decisions taking into account the level of risks relevant to drug misuse in the particular family. [5] The assessment would certainly be more than how and where drugs are used and means of storage as recommended by the coroner after the death of Yeung Chi-wai. Although the safety of the child is a priority, no less attention should be paid to the child's developmental needs with the connection to appropriate supportive services.

The Procedural Guide had gained in thickness over the past decades, currently over 300 pages. It takes much more than briefings to help professionals, especially those with infrequent involvement with families with drug misuse to make effective use of the document. Guidance and support in its use and training according to the needs of such professionals is required. In the last review of the conduct of MDCCs, there was a great resistance to have parent participation throughout the MDCC which can be very empowering when done well. The reasons behind such resistance warrant further exploration.

Although "the best interests of the child" has been mentioned repeatedly in the Procedural Guide, there needs to be a clearer understanding among professionals as to what this means when children are left in residential care for prolonged periods of time. SWD's response to the Panel on Welfare Services says that when alternative care is arranged, there would be permanency planning according to the long-term welfare of the child and that reviews are undertaken every 3 to 6 months. How this is done and its effectiveness need auditing. The

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[4] Procedural Guide on Handling Child Abuse Cases. Social Welfare Department. Revised 2015. http://www.swd.gov.hk/doc/fcw/proc_guidelines/childabuse/Procedural%20Guide%20for%20Handling%20Child%20Abuse%20Cases%20(Revised%202015)%20012016.pdf Accessed 19 December 2016

[5] Regional Joint Service Agreement – Hidden Harm. Health and Social Care Board. January 2013. http://www.publichealth.hscni.net/sites/default/files/Regional%20Hidden%20Harm%20Protocol%20Jan13.pdf Accessed 19 December 2016

statistics provided see children remaining in care till 18 or above and what "change to other residential care meant", in fact how frequent could be the changes, is unclear. There are far more children in residential homes than foster care. Reference should be taken to the UN Committee on the Rights of the Child (UN Committee)'s General Comment on the implementation of the best interests of the child.[6]

While family-based care in preference to institutional care is well recognised, there is a chronic shortage of foster families. A review of the foster care system from criteria, recruitment, education, training and support of foster parents to their monetary allowance is required. It was noted that in a submission by Medical Co-ordinators on Child Abuse of the Hospital Authority to the Panel on Welfare Services in May this year, in a survey of 1,693 child abuse cases the average length of hospital stay was 9.1 days with 5.3 days not for medical needs. With the Hospital Authority's daily cost of an acute hospital bed at $5,490, the excess hospital stay amounted to $49 million. Apart from the monetary cost involved, these children are unnecessarily exposed to hospital-acquired infections during their prolonged stay. Cost and infections aside, especially for infants and young children prolonged stays in hospitals or even crèches is detrimental to their long term development as the staffing structure would not be conducive to the child developing a secure attachment to a caregiver. At times when foster care is deemed most suitable and is available the current arrangement is that parental consent is required. When we say the best interests of the child is the primary concern, we need to see how this can be rectified and how foster parents can be protected from unco-operative parents.

Even foster care arrangements should be time-limited. When there is little chance of improvement of the family situation, the option for adoption should be seriously considered. It is about time the whole system of alternative care for children be reviewed.

Conclusion

As a party to the Convention on the Rights of the Child[7] (CRC), Hong Kong has a duty to ensure the right of every child to survival, protection, development and participation. Under Article 19 of the CRC, "all appropriate legislative, administrative, social and education measures" are to be taken to protect the child from all forms of … abuse, neglect or negligent treatment…" Article 18 states that although parents "have the primary responsibility for the upbringing and development of the child" governments need to "render appropriate assistance" in their child-rearing responsibilities. An overarching principle is Article 3 "the best interests of the child shall be a primary consideration" in all actions taken. Hong Kong has failed Yeung Chi-wai in all these aspects.

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[6] General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art.3, para.1) http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f14&Lang=en Accessed 19 December 2016

[7] Convention on the Rights of the Child. http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx. Accessed 19 December 2016

Our neighbour Macau has just dissolved their Women Commission in November, last month, and formed a Women and Children Commission.[8] The advancement of the rights of the child will begin with the setting up of a Child Database next year. It is about time Hong Kong stop using the Family Council as a shield to the establishment of a Children Commission and seriously look into "centralized data collection systems" both of which have been called for repeatedly by the UN Committee in their concluding observations on reports from Hong Kong on the implementation of the CRC."[9, 10] The database would facilitate our understanding of the size of the problem, service planning, both preventive and remedial, and alternative care. The dedicated Commission would look at our policies and legislations related to children and monitor whether, indeed, all actions concerning children are taken in the best interests of the child. Our children cannot continue to wait.

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[8] Macau SAR Women and Children Commission
http://bo.io.gov.mo/bo/i/2016/48/regadm27_cn.asp Accessed 19 December 2016

[9] Consideration of reports submitted by states parties under Article 44 of the Convention. Concluding observations: China (including Hong Kong and Macau Special Administrative Regions) 24 November 2005
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCHN%2fCO%2f2&Lang=en Accessed 19 December 2016

[10] Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September-4 October 2013).
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCHN%2fCO%2f3-4&Lang=en Accessed 19 December 2016