



Baby Friendly Hospital Initiative
Hong Kong Association
愛嬰醫院香港協會

Submission to
Subcommittee on Children's Rights of the Legislative Council on
Proposal for establishing a Commission on Children
20 April 2017

Introduction

Baby Friendly Hospital Initiative Hong Kong Association (BFHIHKA) welcomes the Chief Executive Elect's intention to establish a Commission on Children in Hong Kong. Children are indeed a vulnerable group that needs special attention. A Commission on Children is long overdue. For the interests of our children and the generations of children to come, Hong Kong needs not merely a group of advisors conferring with representatives from different bureaux and departments, but to establish an effective independent institution that functions as an advocate for children, ensures the voices of children are heard and that their rights as laid down by the Convention on the Rights of the Child¹ (CRC) are upheld.

When the CRC was extended to Hong Kong in 1994, Hong Kong already had an obligation to see to its implementation. Nevertheless, other than the times preceding the required reporting to the United Nations Committee on the Rights of the Child (the Committee), when the responsible bureau collated responses from government bureaux, departments and the community to prepare the report, little activities related to the CRC's implementation or monitoring are done. Ad hoc discussions of topics chosen by the bureau with a select group of children and NGOs in the Child Rights Forum had little implication in practice. Introduction of child impact analysis into policy formation and decision-making was recommended by the Committee in its first Concluding Observations² regarding Hong Kong in 1996. This was only incorporated into the Family Council's family impact assessment from 2013. Yet there is no information as to how, when and on which new policy this had actually been conducted. Hong Kong needs a dedicated institution appropriately funded with executive functions to shoulder the responsibility of promoting and protecting the rights of the child in Hong Kong.

Role of Commission on Children

The establishment of such an institution was repeatedly recommended in the Committee's all three Concluding Observations on Hong Kong in 1996³, 2005⁴ and 2013⁵. The Committee had laid down the role of the institution based on the Paris Principles⁶ in its General Comment No. 2⁷. Had there been such an institution to oversee the recommendations of the Committee on adopting a comprehensive policy on children, coordinated plans of action with the best interests of the child as a primary consideration, harmonization of legislations with the CRC, resource allocation, data collection, monitoring and evaluation, much advances would have been made and children in Hong Kong would have fared better in the last two decades.

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www.babyfriendly.org.hk www.unicef.org.hk



Commission on Children and Breastfeeding

The CRC encompasses the four basic rights of the child – survival, protection, development and participation. Breastfeeding involves all these rights. BFHIHKKA would like to illustrate how a Commission on Children would have facilitated Hong Kong’s implementation of Article 24 on “the right of the child to the enjoyment of the highest attainable standard of health” through enabling mothers to breastfeed. As an important public health issue, WHO has long recommended exclusive breastfeeding for six months and with the introduction of appropriate and safe complementary foods, continue breastfeeding to two years of age or beyond.⁸

A comprehensive *child policy* for Hong Kong – An infant feeding policy based on the WHO recommendation would necessarily be part of the child policy. The current Breastfeeding Policy⁹ of the Department of Health would not remain that of the department for its services for clients or as the workplace for its employees. It would apply to the whole of Hong Kong without reservation.

Policy implementation, monitoring and evaluation – As a territory-wide policy, the responsibility for implementation would not only be that of the Department of Health but other bureaux and departments as well. Breastfeeding is a basic right of the child which comes only once in a life time and have life-long implications. Support and protection of breastfeeding needs to take place in the public and the private sector, in health and non-health related services and settings, not only where and when possible on a voluntary basis with no time frame.

Legislations in harmony with and in support of the CRC – Maternity protection in Hong Kong does not even match the lowest requirement of the International Labour Organization¹⁰. Breastfeeding mothers are not protected from discrimination in public places. The WHO International Code of Marketing of Breastfeeding Substitutes¹¹ and subsequent relevant World Health Assembly resolutions are not enshrined in law. Even a voluntary code of marketing has not been launched after drafting completed in 2012. There also had to be a debate, yet to be settled, on whether the regulatory framework on nutrition and health claims on formula milk for use below 36 months of age should be inclusive or restrictive.

Data Collection – Hong Kong lacks a child database. With respect to breastfeeding a major piece of information is the exclusive breastfeeding rate in maternity units. Although BFHIHKKA attempted to collect the rate from birthing hospitals since the early 1990’s, on a voluntary basis, data was never complete. With a Commission on Children to ensure the necessary child indicators are included in a child database, this information would not have to wait till 2016 to be collected officially. Birthing hospitals



would have long been able to monitor the outcome of whether they have been practicing evidence-based medicine for the health of mother and child.

Principle of the best interests of the child - While breastfeeding is an important public health issue, understandably there are competing interests between bureaux and departments and in the community when breastfeeding is to be promoted, supported and protected. With a Commission on Children to ensure the best interests of the child as a guiding principle in Hong Kong's commitment to children being upheld, the government is in fact assisted in its responsibility to protect the health of the community. Many circuitous routes and much time and effort over the past years would have been avoided.

Conclusion

Round the world, over forty countries¹² already have such institutions in place, the first one being in Norway thirty-five years ago¹³. Hong Kong has lagged far behind. Still, it is better to be late than never. Hong Kong is in a good position to learn from the experience in these countries to ensure the Commission on Children to be established in Hong Kong lives up to the objectives of the establishment of the commission.

¹ Convention on the Rights of the Child. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> accessed 17 April 2017

² Concluding observations of the Committee on the Rights of the Child: United Kingdom of Great Britain and Northern Ireland: Dependent Territories Hong Kong. <http://hrlibrary.umn.edu/crc/hongkong1996.html> accessed 17 April 2017

³ ibid

⁴ Concluding observations: china (including Hong Kong and Macau Special Administrative Regions) 2005. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fCHN%2fCO%2f2&Lang=en accessed 17 April 2017

⁵ 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). Committee on the Rights of the Child accessed 17 April 2017

⁶ Principles relating to the Status of National Institutions (The Paris Principles) 1993.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx> accessed 17 April 2017

⁷ Convention on the Rights of the Child. General Comment No. 2 (2002) The role of independent national human rights institutions in the promotion and protection of the rights of the child.

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en accessed 17 April 2017

⁸ WHO Global Strategy on Infant and Young Child Feeding 2003.

<http://www.who.int/nutrition/publications/infantfeeding/9241562218/en/> accessed 17 April 2017

⁹ Breastfeeding Policy. Family Health Services. <http://www.fhs.gov.hk/english/breastfeeding/policy.html> accessed 17 April 2017

¹⁰ International Labour Organization. C183 – Maternity Protection Convention, 2000 (No.183).

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183 accessed 17 April 2017

¹¹ WHO International Code of Marketing of Breastmilk Substitutes 1981.

<http://www.who.int/nutrition/publications/infantfeeding/9241541601/en/> accessed 17 April 2017

¹² European Network of Ombudspersons for Children. http://enoc.eu/?page_id=19 accessed 17 April 2017

¹³ The Ombudsman for Children, Norway. <http://barneombudet.no/english/> accessed 17 April 2017