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

November 2012

By Hong Kong Committee on Children's Rights together with 12 organizations and 6 individual experts working for and with children in Hong Kong

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Content

01 About Hong Kong Committee on Children's Rights

02 Some notes on the report

03 List of organizations and individuals contributing to the Report

04 Report under the Convention on the Rights of the Child

- 04 SECTION I. GENERAL MEASURES OF IMPLEMENTATION
- 08 SECTION II. DEFINITION OF THE CHILD
- 09 SECTION III. GENERAL PRINCIPLES
- 15 SECTION IV. CIVIL RIGHTS AND FREEDOMS
- 21 SECTION V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE
- 27 SECTION VI. BASIC HEALTH AND WELFARE
- 36 SECTION VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES
- 41 SECTION VIII. SPECIAL PROTECTION MEASURES
- 41 About Optional Protocols and Reservations

48 Acknowledgements

Let's join hands to build

a society that respects the rights of children!"

About Hong Kong Committee on Children's Rights

The Hong Kong Committee on Children's Rights (HKCCR) was formed in 1992, originating from a group concerned about unattended children, which had come together under the auspices of the agency, Against Child Abuse. To handle the wider issues of children's rights and to involve more organizations and individuals who have the well-being of children as their prime concern, the Committee was registered as an independent non-governmental organization with charitable status in 1995. Membership of the Committee is made up of a wide range of professionals interested in the rights of children. We have been and are concerned about the needs of children, and their rights to survival, protection, development and participation, which are the four main areas that the United Nations Convention on the Rights of the Child has been advocating.

Our objectives:

1. Promote, advance and ensure the rights of children in Hong Kong;
2. Develop and continuously update an agenda for the rights of children in Hong Kong including the adoption of a Child Policy, a comprehensive Child Ordinance, and the establishment of an independent Child Commission;
3. Monitor the implementation of the UNCRC in Hong Kong;
4. Communicate and cooperate with local and international organizations on children's rights

We strive to achieve our objectives with 4 focused areas of work:

- Advocacy and Monitoring
- Education and Training
- Promotion and Community Work
- Research and Publication

We work with children, youth and child related professionals closely, and we share with them our knowledge and experience in the application of the UNCRC.

Some notes on the report

This is the second report prepared by the joint efforts of civil society after the Convention on the Rights of the Child was extended to Hong Kong in 1994. This time, Hong Kong Committee on Children's Rights worked together with 12 non-governmental organizations, professional bodies, and 6 individual experts to prepare the report that we hope to provide alternative views to the Hong Kong Special Administrative Region (HKSAR) Government report on the situations faced by children in Hong Kong. We strongly believe a fair, realistic and comprehensive report to reflect the state of children in the HKSAR requires professional assessments, frontline workers' observations, as well as objective views from people who closely work for and with children. A report supported by organizations that are broad based and representative also adds weight to the comments and recommendations made.

This report would not be made possible without the genuine and sincere comments, views and inputs made by all the child rights partners who share the same vision on children with us. We hope that the United Nations Committee on the Rights of the Child would find the views made in the report useful in understanding the child rights situation in Hong Kong. At the same time, we hope that the HKSAR Government would also consider our alternative views in their policy making and planning for the 1.1 million children population in our city.

List of organizations and individuals contributing to the Report

Against Child Abuse

Baby Friendly Hospital Initiative Hong Kong Association

Caritas Youth and Community Service

Chinese YMCA of Hong Kong – Hin Keng Centre

Evangelical Lutheran Church Social Service – Hong Kong

The Hong Kong Childhood Injury Prevention and Research Association

Hong Kong Committee for UNICEF

Hong Kong Committee on Children's Rights

Hong Kong Society for the Protection of Children

Playright Children's Play Association

Society for Community Organization

The Hong Kong Council of Social Service

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Special thanks to the members of the Alliance for Children's Commission who have contributed time and efforts in numerous meetings in the preparation of this report.

SECTION I. GENERAL MEASURES OF IMPLEMENTATION

Article 4: Implementation of rights

Plan of Action

1. *Concluding observations: "The Committee reiterates its previous recommendation that HKSAR improve the coordination of activities on the implementation of the CRC by developing and implementing a Plan of Action."*

2. There is still no comprehensive Plan of Actions for the general implementation of the CRC in HKSAR. Matters related to children continued to be handled by various bureaux, departments and NGOs in a fragmented manner, without a clear timetable or roadmap on how to eliminate the problems affecting children in a systematic and comprehensive manner. Government's budget allocation is very short-sighted and piecemeal so that very often it is derailed from the original purpose of the policies making them ineffective and a waste of public money. This could be reflected in our report in article 2 (inclusive education), article 18 (child care services), article 24 (mental health), and article 33 (drug abuse).

Independent monitoring

3. *Concluding observations: "The Committee regrets the absence of an independent national human rights institution with a specific mandate on child rights in HKSAR. The Committee recommends that HKSAR establish it in accordance with The Paris Principles."*

4. The debate for a Children's Commission came to a climax in the community shortly after the HKSAR Government reported to the Committee in 2005 in Geneva and many discussion sessions were held in the community thereafter. A coalition with over 20 child-related NGOs and professional bodies was formed in April 2007 and named as the Alliance for Children's Commission to push the campaign further. On 7 June 2007, a motion: *"That this Council urges the Government to set up a Commission on Children to fulfill the obligations under the United Nations Convention on the Rights of the Child, safeguard the well-being of children, and ensure that children's perspectives are fully taken into account in the process of formulating government policies."* was moved by a Legislative Councillor and passed with unanimous votes across all political parties in the Legislative Council on 7 June 2007[1]. However, the motion was non-legal binding and the government has been applying delaying tactics even till today. In December 2007, the government announced the establishment of a Family Council that would take care of the interests of all family members including children. However, children's affairs are not only limited to the family context, and the voices of children will easily be submerged. (Appendix 1: Alliance for Children's Commission's letter to Chief Executive of HKSAR Government on 27/08/2007)

5. We are disappointed to read from the HKSAR Report that the Government remains of the view that an independent monitoring mechanism for children is unnecessary, even though at the Legislative Council level, professional level, NGO level, as well as children themselves have repeated the call numerous times through letters, media interviews, press conferences, forums, Legislative Council meetings, and studies.

[1] Progress Report on the Motion "Commission on Children", Constitutional and Mainland Affairs Bureau, September 2007, http://www.legco.gov.hk/yr06-07/english/counmtg/motion/cm0606-m1-prpt-e.pdf

6. We are also confused why the Government quoted the Review of Jurisdiction of the Office of Ombudsman in paragraph 24-25 of the HKSAR Government report in answering the UN Concluding Observation, when obviously the Office of Ombudsman in Hong Kong is only "redressing grievances and addressing issues arising from maladministration in the public sector." This is far from the UN General Comment No. 2 (2002) - *The role of independent national human rights institutions in the promotion and protection of the rights of the child.* In the Review[2], there were discussions about the role of ombudsman and the protection of human rights in the overseas countries. However, the Ombudsman made it clear that *"The question of whether one single institution should be set up to oversee all issues on human rights protection in Hong Kong was a policy issue to be examined by the Administration."* So with the community support, the Government should make a wise policy decision to set up an independent Children's Commission to protect the rights of children at the soonest.

7. We are also bewildered that the Children's Rights Forum and Family Council have been mentioned in the HKSAR Report as means for the overall implementation of children's rights, when obviously the participants and members have criticized fiercely on their representation, functions, efficiency in influencing policies, and the irregularity of meetings and agendas. We would elaborate more in article 12 and Section V.

Child Impact Assessment

8. Many child-related policies are launched without first conducting an impact assessment on children, and as a result caused adverse effects on children. This could be reflected clearly in many examples, such as children with special needs are suffering in the inclusive education policy implemented without thorough consideration and support; the controversial school-based drug testing scheme on school children; and the effects on needy children as a result of cutting social security benefits for low-income families. Many more examples could be reflected in our report in articles 2, 3, 12, 18, 24, 26, 28 and 33. We called on the Government to establish a clear Child Impact Assessment Mechanism for policies and legislations related to children to keep in line with the best international practices. Otherwise, children will inevitably become guinea pigs in these newly introduced policies.

Mechanism to handle cross-border issues

9. There is an obvious changing population pattern as a result of the special relationship between Mainland China and HKSAR after 1997 (change of sovereignty). At present, there is a body called CEPA (Mainland and Hong Kong Closer Economic Partnership Arrangement)[3] to handle the economic activities between the two places. However, there is no such mechanism to handle the issues relating to the civil societies between the two. At least 40% of children born in HKSAR are born to one or both parents who are Mainland residents according to the Census and Statistics Department in the recent years. There are more than 12,000 young children travelling across the border to study in HKSAR on a daily basis according to Education Bureau's figures. Some of them travel alone. Their well-being deserves prompt attention and support. With the closer ties between the two places, cross-border marriages, divorce, guardianship and family proceedings, status

2 Report on Review of Jurisdiction, Part 2, Office of the Ombudsman, November 2007, http://www.legco.gov.hk/yr08-09/english/panels/ajls/papers/aj0427cb2-1384-8-e.pdf

3 Website of CEPA (Mainland and Hong Kong Closer Economic Partnership Arrangement), http://www.tid.gov.hk/english/cepa/index.html

problems, care and education for children, child neglect, medical care… etc. need to be handled immediately by an official body with reference to the CEPA. Specialized agencies supporting new arrivals deserve special recognition and resource allocation. More will be reported at article 29.

Data collection

10. *Concluding observations: "The Committee recommends HKSAR further strengthen its efforts to collect reliable and comprehensive statistical data on all areas covered by the CRC and ensure that such data is systematically made available to the public in a timely manner. It further recommends HKSAR explore the development of central data bank on children's statistics for the development, implementation and monitoring of appropriate policies and programmes for children."*

11. There is no central data bank for children in HKSAR. The statistical data related to children is scattered in different bureaux, departments, and institutes. They are difficult to be accessed by the public. HKSAR conducts a by-census and census every 5 and 10 years. They are a good starting point to build in a mechanism to collect and analyze statistical data related to all under-18 children in a systematic way. However, we have not seen such a move so far. HKSAR had in the past earmarked funding to collect comprehensive data on youth and women through Commission on Youth and Women's Commission. However, no such efforts have been made for children. Instead, some children's data have been put in a difficult-to-find corner of the Constitutional and Mainland Affairs Bureau website[4] after repeated calls by the NGOs. These statistical data are not categorized at all, the available data are very limited and scattered, and they have never been promoted to the public. The lack of reliable data is difficult for all parties to plan suitable programs and services for children. This would be further reflected in our report in articles 6, 23, 26, 31, 34, 35 in our report.

Article 42: Dissemination of the Convention

12. *Concluding observations: "The Committee recommends the State Party further strengthen its efforts to disseminate the Convention in all languages, and also through the use of child-friendly materials and school curricula; expand its programmes to sensitize parents and children about the Convention; and increase its efforts to provide adequate and systematic training on children's rights for professional groups working with and for children."*

13. The Government tries to strengthen its efforts in disseminating the Convention by making the child-friendly UNCRC booklets available to more students, funding an interactive educational kit produced by UNICEF HK, sponsoring UNCRC educational activities organized by schools and NGOs through the Children's Rights Education Funding Scheme, and launching UNCRC advertisements on mass media. However, the efforts lack a strategic and holistic approach and thus remain piecemeal and ineffective.

14. Child rights are an optional module in civic education and liberal studies. Due to the inadequate knowledge of teachers in the subject area and the overwhelming learning needs of both primary and secondary studies, the module is normally skipped by teachers.

[4] Children Statistics and Information, website of Constitutional and Mainland Affairs Bureau, http://www.cmab.gov.hk/tc/issues/child_statistics.htm

15. We are concerned about the low awareness and lack of understanding of child rights of duty bearers as well. With the continuous lack of focus of educating child rights in Hong Kong over the years, we believe the general awareness and understanding on child rights in the society remains low. It is thus hard to help children learn about their rights. Though the Government has launched some advertisements to raise the awareness and understanding of child rights in 2001 and 2009, they appear to be tactical with no impact, lack an integrated promotional plan to sustain the noise and fail to deliver the messages effectively.

16. The Government reported that there are established channels to monitor the human rights situation in Hong Kong and decided not to conduct a survey on human rights which was planned by the former Human Rights Education Working Group (disbanded in 2007) under the Committee on the Promotion of Civic Education. We have not seen any holistic and systematic report to monitor child rights situation in Hong Kong yet and are doubtful on the decision made.

17. In view of the concerns above, we urge the Government to quickly evaluate the current situation and devise a long-term strategy and plan to integrate all key elements including but not limited to the education system, training resources, and mass media to promote child rights. Child rights should be implanted in the school setting, i.e. school policy, curriculum, extra-curricular activities, through holistic, careful, and thorough planning. We believe this is the most solid, fundamental and effective approach to improve children's understanding of their rights. Alongside, resources should be invested in facilitating in-depth learning of child rights by teaching professionals and parents. Last but not least, we are looking forward to a holistic, sustainable and integrated marketing plan to promote child rights in Hong Kong by making good use of the mass media.

Article 44.6: Making the report available

18. Although the Legislative Council and the civil society had demanded the HKSAR Government repeatedly to consult the public before the CRC report is submitted to the Committee, the government nevertheless chose to have a limited consultation on the outline of topics to be included in the report[5] only. The Government also lacked strategy in promoting the report to children and adults in the community. Although the Government has produced a child friendly report this time, the report however did not go public on time. Children could not read, comment nor report to the UN Committee before the official deadline of submissions on 30 November 2012 using the child friendly report. Besides, the reports, the summary records, and concluding observations are uploaded onto the website of the Constitutional and Mainland Affairs Bureau without public promotion to sensitize the public. Many stakeholders concerned with children have no idea about these documents and the procedures that followed, not to mention children in general.

[5] An outline of topics to be covered in the 2nd report of HKSAR under the CRC, 2009, http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/Outline_on_CRC_report_e.pdf

SECTION II. DEFINITION OF THE CHILD

19. A child is defined as anyone under the age of 18 according to the CRC. However, there are inconsistencies in different legislations. Below are some examples:

- Legal age for full-time employment: 15
- Minimum age of criminal responsibility: 10
- Age permitting to get married with parents' consent: 16
- Age permitting to get married without parents' consent: 21
- Definition of a child in the Protection of Children and Juveniles Ordinance: under the age of 14
- Definition of a child in the Prevention of Child Pornography Ordinance: under the age of 16
- Children are allowed to give unsworn evidence in the Evidence Ordinance: under the age of 14
- Juvenile Court hears charges against children or young people under the age of 16

20. We need to ensure a clear policy to protect children under the age of 18 and give sound reasons in situations if a lower age limit than that defined by the CRC is used. A sound mechanism should be set up to decide the age in different situations, so children can be well-protected and their interests will not be sacrificed for administrative convenience.

SECTION III. GENERAL PRINCIPLES

Article 2: Non-discrimination

21. We welcomed the government's actions using legislation and international instruments to implement the non-discrimination principle. The Convention on the Rights of Persons with Disabilities entered into force in HKSAR on 31 August 2008, and the Racial Discrimination Ordinance came into full operation in July 2009. Nevertheless, we want to examine the policy readiness, preparations and resources of the authorities in ensuring the principle's implementation in the community level.

22. The Disability Discrimination Ordinance (DDO) was enacted in HKSAR in 1995 and became operative in 1996. Equal Opportunities Commission (EOC) has also prepared a Code of Practice on Education under the DDO as a guideline on the practical implementation in the school setting. Although there is a legislation prohibiting discrimination on the basis of ability, underprivileged children in HKSAR are still subject to different levels of discrimination in their daily life.

23. Since the launch of the inclusive education in HKSAR in 2003/2004, many children with disabilities can now enter the main stream schools for education. The direction is welcomed, however, cases of discrimination and exclusion have frequently been observed and reported reflecting the fact that schools are unprepared under the new policy that came too rushed and sudden. Children with special needs lack support. They found it difficult to integrate into the mainstream schools and are commonly discriminated, excluded socially, and very often became the target of bullying.

24. Although the HKSAR Report stated that the Education Bureau is using a Whole School Approach, it is clear that the budget allocation criteria, support, and resources provided are only using the number of children in need as a foundation while the workload has been shouldered by a few teachers and teaching assistants only. One child with special needs actually needs the support of the whole school, with necessary changes in school policies and facilities. The present situation very often corners a few children in a school. They are often blamed as trouble makers by other children while teachers and even other parents blame them for the "inconvenience" made. The inclusive atmosphere is totally jeopardized if not worse.

25. We recommend that each integrated school should develop a comprehensive plan and monitoring system according to the code of practice on education developed by the EOC. No teacher, staff, or student should escape from the duty in this regard. A formal structure and system should also be set up to handle cases and complaints on discrimination within the school campus to support students and teachers in need.

26. We recommend that a systematic education curriculum on integration and inclusion should be built in all kindergartens, primary and secondary schools on topics of equal participation, diversity and the importance of a discrimination-free and inclusive school campus, so that children can be fostered in an inclusive atmosphere, and develop the attitude and skills of how to support their peers as early as possible.

27. We also urge the Government to thoroughly evaluate inclusive education after almost ten years of implementation, find out the challenges directly from children and teachers, and all stakeholders involved through a serious consultation. New strategies can then be mapped out to ensure inclusive education is not only a story but a reality in the life of children.

Article 3: Best interests of the child

28. Concluding observations: "The Committee urges the HKSAR Government to include more detailed information on the implementation of article 3 and on how it ensures that the best interests of the child is taken as a primary consideration in all actions concerning children."

29. We still find the content of the Government report on this article lacking in substance. The core principle of the CRC: "Best interests of the child" is far too often used as a slogan. Even though one may claim to respect the child's best interests, there has not been an in-depth, on going and systematic discussion in the community on what constitute the best interests of the child. Examples of such a principle being trampled can be found everywhere. For instance, the debate on legislating against corporal punishment and against children being left unattended has always came to the conclusion of educating and providing services first and avoiding shattering parental/carers' rights and authority. Another example is in the debate of a child sex offender's registry. The overriding concern remains the ex-sex offender's rights and safety, which although very important, should not be sufficient to put a stop to mandating background checks for employees to prevent ex-offenders from having access to children. Even human rights groups and activists are worried about ex-offender's human rights being trampled, without a serious consideration of the immaturity and vulnerability of children that we need to protect them with all our might. This is the same case for press freedom. Media reports should be accurate but eliminate those details that may feed the insatiable appetite of readers/audiences yet cause harm to children. There is a need to balance the need for freedom of speech and the protection of the rights of children.

30. We want this CRC principle written into government policy to make it visible, measurable and accessible systematically at all levels. This should also be clearly reflected at each government bureau and department level to ensure this important notion is truly implemented, including, for instance, how government officials and civil servants should react if conflict arises and the child's best interest is in jeopardy. A good, reliable and transparent mechanism should be in place to ensure the significant actors address the problem which arises and take action accordingly.

31. Guidelines, education and training must be put in place at different levels in the community to actualize this important notion. It shall be integrated into the training of civil servants, disciplined services, child-related professionals such as judges and lawyers, social workers, teachers, and medical practitioners. The involvement of significant parties, especially children themselves is essential to understand what is best for them.

Article 6: The right to life, survival and development

Children's right to safety and un-intentional injury prevention

32. Injury is the number one cause of mortality, morbidity and disability in children over 1 year of age. Every year about 50-70 children under the age of 18 died, 7,000 hospitalized and 60,000 attended Accident and Emergency Department for injuries in HKSAR. The cost to family and society is huge yet most of the injuries can be prevented. In a recent Child Fatality Review, accidental injuries were the major cause of deaths with youth suicide, falls from children left unattended and traffic injuries most important. The report also highlighted that some 40% of fatal incidents occurred at home and many child deaths were related to the lack of proper child care. Seven children died from falling from height accidentally. Five of the fall cases happened at home and four of the deceased children were left unattended. 14 children died of suicide. Relationship problem and school work were main reasons accounting for suicidal attempts. Most of deaths from traffic accidents were due to the lack of proper supervision.

33. On 10 February 1993, a motion was passed at the Legislative Council that HKSAR should tackle childhood injury like infectious diseases and a Child Safety Council be established. In 1998, the Department of Health in her Public Health Report on "Unintentional injuries in children" reported "injuries are the leading of cause of death in children aged 1 to 14" and called for "establishment of a lead agency to provide leadership and coordination across disciplines involved in injury prevention, and monitor (injury) targets (set by Department of Health)". But up till now, childhood injury is still not accorded high priority in the public health agenda. Information is fragmented and inadequate, preventive effort reactive, uncoordinated, empirical not basing on evidence and not evaluated. 27 recommendations were made but up till now the majority of the recommendations were not followed nor achieved. The 2008 World Report of WHO and UNICEF have adopted "Child Injury Prevention" as the theme for it being a major public health issue affecting survival and development of many children and called for urgent actions by all countries. But no parallel actions from HKSAR have been seen so far. At the 64th World Health Assembly held on May 24, 2011, a resolution was adopted on child injury prevention calling for the assignment of a leadership role to a government agency or unit for child injury prevention and the appointment of a focal person for injury prevention, to develop and put into practice a multi-sectoral policy and plan of action with realistic targets.

34. We suggest the HKSAR Government:

1. Establish a Child Safety Council – to be responsible for activities regarding child injury prevention and child safety promotion, as well as develop and implement a child injury prevention policy and a plan of action.
2. Establish a robust injury surveillance system to collect data on injuries sustained by children, identify the magnitude and causes of injury as well as to monitor the trends and evaluate intervention polices/programmes. Define and support priorities for research on childhood injuries.
3. Establish a Child Safety Education Centre to educate children on injury prevention and to train care-givers on safety practices.
4. Make leaving children unattended at home illegal.

5. Enforce wearing of proper child restraints by children while travelling on cars.
6. Legislate on wearing of helmet while cycling
7. Lower the speed limits on smaller roads and especially roads in school and residential areas
8. Introduce child resistant packaging for drugs and toxic domestic products
9. Conduct psychological postmortem on all youth suicide cases as part of Child Fatality Review process

Child Fatality Review

35. To protect the child's right to life, the government has been urged to establish a Child Fatality Review process to prevent unnecessary child deaths. Eventually a pilot project was started in 2008. A final report on the project was published in February 2011[6]. Although instituting a Child Fatality Review mechanism is a step in the right direction, unfortunately it is a voluntary system with review after completion of legal proceedings causing undue delay. Information was based on what was presented to the coroner, or reports provided by agencies who managed the child before his demise. As the coroner looks mainly at the cause of death and what agencies provide or not provide is totally at their discretion, there are much limitations to the recommendations made. Apart from a few concrete proposals, most recommendations are directional and therefore general such as "more" or "strengthen" public education without measurable indicators and no time frame. Effective means to address root causes are not looked into especially when they involve policy issues that cut across departments and bureaux. Furthermore, the recommendations are non-binding. HKSAR needs a Child Fatality Review system that has statutory power to access information and the ability to monitor the implementation of the recommendations. Review should also be extended to serious cases.

Article 12: Respect for the views of the child & Article 13: Freedom of expression

36. *Concluding observation: "The Committee recommends that HKSAR strengthen its efforts, to ensure that children have the right to express their views freely in all matters affecting them and have those views been given due weight in policy-making, administrative proceedings, schools and the home… It further encourages HKSAR to consider establishing a standing body to represent children's views in the political process."*

Standing platform to represent children's views

37. As mentioned in the previous report and by the child delegates in person in 2005, there is an annual initiative called Children's Council that is co-organized by the NGO efforts with children's support and with the sponsorship of the HKSAR Government. The project provides training and exposure for children to understand the CRC and exercise their own rights and responsibilities; and gives them a once-in-a-year channel to voice out on matters of their concern in front of the policy makers, legislators and other duty bearers. Since the pilot project in 2003, adults and children shared the same vision to develop Children's Council as a standing platform for children in HKSAR to represent children's views in the political process. In this way, children can truly have a regular platform of their own, and their views will be considered in

6 Review Panel of the Pilot Project on Child Fatality Review Final Report, December 2010, http://www.swd.gov.hk/doc/whatsnew/201101/PPCFRFR_Final.pdf

the policy making process. The Children's Council initiative has now entered into the eighth year, but the Government has no sign of developing it into a standing body, though tremendous support has been received from individual policy makers, legislators, NGOs, teachers, parents, media, and the most important of all, children themselves. Eight years are more than sufficient to demonstrate to the Government that children in HKSAR are capable of forming his/her own views on matters related to them, and they have the right to participate in the civil society. We believe a standing platform for children is crucially important to bring out the voice and needs of children, when in particular they have no right to vote.

38. The HKSAR Government established a Children's Rights Forum[7] in December 2005 which is convened by the Constitutional and Mainland Affairs Bureau. This initiative aims to establish a dialogue between the Government, NGOs and children's representatives to discuss children's rights issues. However, it meets irregularly and what have been discussed are non-binding and lack follow up actions. Besides, the representatives are fixed though the children's groups have requested repeatedly to expand the representation to include children with disability and ethnic minority to widen the pool, and promote the Forum to school children. However, no such efforts have been made so far. At present, the Children's Rights Forum is confined to 18 organizations according to the distribution list, but there are 300 plus child-related organizations in HKSAR.

Children's views failed to reach all levels

39. Most children in HKSAR are not aware that they have the right to freedom of expression, nor have the ways and channels to do so, like holding public hearing or forum, telephoning to radio programs or emailing to internet media to express their concerns and opinions regarding public affairs as the adult citizens often do. Children have not been adequately informed in the first place, and have difficulties to get access to or understand the adult-centered forum for expression. Even in matters concerning children's welfare, the organizing institutions often refused to include children's participation, which in turn diminished children's motivation to express their opinions. Take for example, in the past five years, none of the free television broadcasting network has taken any actions to seek children's and public views and comments on children's cartoons and their informational programs. Another example, the guidelines of pre-school curriculum clearly states that teachers should employ more open ended questions to encourage children to develop habits of expressing opinions. But no monitoring system has been developed to ensure such guidelines are put into practice.

40. The Government should consider improving and creating effective and child friendly channels at different levels: home, school, District Council, Legislative Council, Government, GOs, NGOs, institutions such as church, children's home, detention centre, and in court and judiciary process and so on. Child representatives should be invited to join and to conduct in-depth and open consultation. Resources should be put to train adults, in particular parents, child-related professionals and policy makers with the knowledge and techniques of how to engage children in issues related to them; and how to seek their views in constructive and child friendly ways.

[7] Children's Rights Forum, Constitutional and Mainland Affairs Bureau website, http://www.cmab.gov.hk/en/issues/child_forum.htm

Children's voice being neglected

41. Children's voice is often being neglected if there is a conflict of interests with adults in HKSAR. Below are a few serious examples:

42. Example One: In a series of educational reforms, such as Mother Tongue Education, New Senior Secondary Curriculum, Liberal Studies in the recent years, Government's consultation targets often focused on school principals, teachers, parents, educators and related professionals, but hardly on children themselves. Children also have their expectation on their education. They are the end users and the ones who know their own learning needs and difficulties most. However, their views have not being collected actively. Even if their comments had been solicited on some occasions, their views were mostly being mentioned vaguely. School children always teased themselves: "We are the guinea pigs of government's frequent educational reforms." In 2012, students' discontent came to a climax when the Government introduced a new compulsory subject of Moral and National Education into primary schools, with the plan to develop later into secondary schools. About 100,000 people mainly secondary school students, teachers, and members of the public took to the street and protested outside the Government headquarters when the new school year started in September 2012. They doubted the Government's intention in introducing the subject into schools, and were dissatisfied with the lack of public consultation, in particular, consultation and dialogues with school children.

43. Example Two: The government insisted on carrying out the pilot School-based Drug Testing Scheme with school children from 23 secondary schools in the Tai Po district in late 2009, amid a spate of opposition voices from the community for destroying the school-child relationship and confusing the role of the school making it an area for investigation and a breeding ground of suspicion, mistrust and stigmatization. Under the new scheme, school children are affected most but they were rarely being consulted and no Child Impact Assessment had been carried out under the new policy. This contravenes Article 12 seriously. Details of the scheme would be further reported in Article 33.

44. Example Three: Children's voice is difficult to be heard in judicial and administrative proceedings affecting the child. It is particularly obvious in divorce, custody and child care arrangement in the family proceedings. In the early years of 2000s, The Law Reform Commission of Hong Kong (LRC) produced a series of four reports on guardianship and custody of children. The LRC recommendation "… amongst other things provide a better mechanism for the views of children to be taken into account in family proceedings which affect them" has yet been implemented. Facing the tardy response of the Government, some legal and judicial professionals are using and referring to the draft statutory checklist attached to the LRC report as their good practice guidelines. However, it is non-binding. Facing the continue-to-climb divorce rate in HKSAR, children's voice has continued to be neglected in the family proceedings. More will be reported in Section V's family environment and alternative care.

SECTION IV. CIVIL RIGHTS AND FREEDOMS

Article 17: Access to appropriate information

45. The question of what is "appropriate" and who defines "appropriate" needs to be addressed. It is often not very clear in Hong Kong and left to a small designated group to decide with limited children and community participation.

46. Hong Kong has acquired a permissive approach towards pornographic materials easily accessible but at the same time when it comes to control and sanctioning, a narrow definition is still used in law and in practice. Without adequate support and supervision this is exposing our children to risks and danger.

47. For instance, a 14-year-old female artist was portrayed with sensuous photos on a popular weekly magazine in 2006. This caused serious community concern, but was later defined by the authorities as appropriate under the existing Hong Kong legislation.

48. The Hong Kong community is striving for freedom of information and freedom of speech. Such should be ensured at all levels in early childhood, through education in the family, pre-school, primary school, secondary school to university. Multimedia has an important role to play in embracing the notion of Article 17 of the Convention.

49. For all the Conventions and Protocols signed by the HKSAR Government, there is close to no child friendly versions and efforts to ensure children being well informed and able to comprehend the documents. When the Government consults the public on changes in policies or new policies, children have also not been well informed in child friendly ways or consulted even when the policies and practices directly or indirectly impact their lives. They were not able to actively participate in sharing their views and their concerns.

Inappropriate information for children on television

50. The current legislation on mass media is insufficient for child protection in HKSAR. On television (TV), though there are some guidelines on the quality of children and family entertainment programs, the purchased cartoons that are aired in the children's time zone often still contain sinuous content and connotations that may even suggest immoral ideas. These ideas corrode children's morality and may be accepted as norms by children unknowingly. Simply relying on private institutions to purchase and manage their broadcasting time based on commercial interests is to ignore children's right to quality and appropriate programs for them. The passivity of the Broadcasting Authority in investigating and regulating programs after complaints are launched is negligence on their part not having considered children's right to access appropriate information. The harm has already been done when the program is on air.

51. Under the current broadcasting practice, if the "PG" sign appears on the TV screen, it means "Parents Guide" and advises parents to choose programs for their children and to accompany children in viewing all programs outside the family entertainment time zone (6:00pm-8:30pm). This could not protect children at all if they live in a family without proper care. The "PG Parents Guide" has served as a shield for the TV broadcaster to evade their responsibility. In this regard, we would like to make the following suggestions that should be linked with the terms of free television licensing so as to protect our children further. They included:

- Extend the family entertainment airtime from 6:00pm-8:30pm now for another hour to 9:30pm every evening to guarantee programs that are aired before 9.30 pm are suitable for children.
- Carry out random spot check on the TV programs and commercials to be broadcasted during the time slot for children programs (4:00pm-6:00pm) for evaluation by the Broadcasting Authority before airing to avoid misleading children with inappropriate information.
- Open a free channel solely designed for children with child friendly and children appropriate information and contents.

Inappropriate information for children on printed media and other channels

52. The existing The Control of Obscene & Indecent Articles Ordinance (COIAO) seems unable to control indecent or pornographic cover page or headlines that can still be seen commonly at newspaper stands and at the eye level of children. HKSAR Government is presently reviewing the COIAO. We hope the exercise shall include the assessment of explicit and implicit impact of the mass media on the child (i.e. obscene and indecent, pornography and child pornographic materials that appear under this section). The review must also address the criticism of the terminology's definition being narrow, confusingly unclear, and guidelines outdated. Often there is a lack of consensus. The terms are subject to individual interpretation even among judiciary and tribunal members. The number of members in the Obscene Articles Tribunal and the types of members are also limited.

53. New information technology such as internet, facebook, mobile transmission and so on must be addressed. There is a lack of content analysis of such articles and materials in order to know what is the trend, characteristics locally and overseas, and what should be and to what extent these materials are being considered inappropriate. Baseline study or survey is needed to understand the community stands, and the international standard to work towards a stronger child perspective.

54. The recent case of some 40 children responding to an invitation (through mobile application) to a man pretending to be a female gynecologist-obstetrician, and sending their naked photos for medical assessment followed by face to face meeting, in which four such adolescents were raped was a serious case that is worth attention.

55. Regarding Article 17, point (c) must also be emphasized. There have been much debate and concern on some cartoons and comics conveying indecent and problematic messages, and even advertisement appealing to children to join certain immoral activities. Such could erode our children's morality in the long run as cartoons and comics are appealing and attractive and the messages inside often taken by children and parents as the norm and thus the impact could be more subtle and hard to change.

56. There is a lack of a central unit handling such matters and taking a proactive role to patrol and police the situation. A reactive approach by only receiving complaints and not making the complaint channel clear to children and the public is certainly not what we wish to see. The law enforcement has been weak, direction unclear, and it also lacked extra territorial jurisdiction and effective extradition regulations and practices.

57. Training of law enforcement and related personnel from various disciplines are needed, such as the Obscene Articles Tribunal, Customs and Excise Department, Television and Entertainment Licensing Authority to acquire a global and strong child perspective is an area of great importance.

Balance between freedom of speech and children's rights

58. There is a need to balance the need for freedom of speech and the protection of children's rights, in particular for their right to receive appropriate information. It is the social responsibility of the mass media to respect and uphold children's rights. HKSAR's mass media should spearhead the commitment and exertion of social responsibility on protecting children's rights by disseminating appropriate information to children and making known children's rights to the public in accordance with the obligations embraced in Article 17.

59. Indecent, violent and immoral information and messages though not directed at children could bear long term and adverse impact. Balancing freedom of speech and ensuring children receive guidance and learn to make informed decisions is essential. Media ethics, code of practice, rules and guidelines must be respected, as well as media training specifically on child-related issues. These are exactly the areas listed under Article 17, point (a), (e). The Government must be asked what steps have been taken on these to ensure the mass media are taking corresponding specific actions.

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

60. *Concluding Observation: "The Committee urges the jurisdiction to explicitly prohibit by law corporal punishment in the family… and all other settings; and expand public education and awareness raising campaigns with the involvement of children on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment."*

Corporal punishment still prevalent and legal

61. Corporal punishment is still prevalent. HKSAR law does not stipulate clearly this is illegal. The government supported Against Child Abuse, a NGO's invitation to endorse a declaration against violence in 2005 but declined to endorse a declaration to ban corporal punishment in the family. Against Child Abuse has obtained 12,000 endorsement signatures including 120 organizations from 2005 to 2012 that support the appeal to the government to Ban Corporal Punishment in the family setting and presented them to legislators striving for their support. The Government should make it clear and make it official widely her stance against corporal punishment. We also need to ask the Government for a clear timetable and plan on how to ban corporal punishment altogether with legislation and resources allocated. Using other legislations such as Offences Against the Persons Ordinance is insufficient to protect children from violence, and sends a negative message to the public that corporal punishment can be endured.

62. There is no evidence indicating the Government increasing funding allocation for positive parenting/child management to ensure a non-violent approach.

Article 19: Abuse and neglect

63. *Concluding Observation: "The Committee recommends the HKSAR to define in a more explicit manner the forms of sexual abuse and increase education and training for professionals working with and for children on the identification, handling and prevention of all forms of abuse; strengthen coordination and follow-up of individual cases of abuse, neglect and maltreatment and ensure that all victims of any form of abuse, and their families, have access to social services and assistance; and ensure handling investigations without any discrimination as to whether the alleged perpetrators are from within or outside the family."*

No Child Development Blue Print and No Child Development Index found

64. Develop and publicize a well consulted Child Development Index and Blue Print as the basis for healthy and holistic child growth and development is important. This is being done in Mainland China (refer to Child Development Blue Print 2011-2020) yet still lacking in Hong Kong thus making child rights protection weak.

Lack of proactive child protection policy

65. We find no proactive child protection policy in HKSAR. Such policy should be developed and periodically reviewed with the involvement of all stakeholders, adults and children, different disciplines, GOs and NGOs. This policy should lay down clearly the definition of abuse and neglect, from which indicators and guidelines are derived and followed. The current Procedural Guide for Handling Child Abuse Cases does not serve this purpose.

Monitoring body only under the welfare network, being consultative and met infrequently

66. The Committee on Child Abuse remaining under the chair of the Director of Social Welfare, though represented by various departments and NGOs, is still welfare oriented. As an important monitoring body, this should be independent, supported by mandate, resources and work more proactively.

67. Child advocates and related NGOs have not been included in the Working Group on Domestic Violence and thus lacked opportunities to strive for the best interest for children witnessing domestic violence.

Did not give children priority

68. There is no evidence indicating that Government's priority has been given specifically for children being disciplined by corporal punishment, and children being neglected, left unattended and sexually abused, all areas being prevalent and adversely impacting children's holistic growth and development.

Lack efforts and resources cultivating positive value and non-violent culture

69. There is no evidence reflecting government's will, determination, efforts and resources devoted to build a caring and non-violent value and culture. Publicity advertisements have been piece meal and superficial. A more strategic plan of action targeting specific groups (children and adults, professionals and public) with the selection of in-depth messages is essential to impact attitude, values, philosophy, and behavior of parents and care givers and the community at large in the perception of child and childhood.

Child neglect is prevalent but not properly addressed

70. The Child Protection Registry of the Social Welfare Department captured a climbing trend of child abuse and child neglect cases in the recent years.[8] There is serious under-reporting of cases particularly in child neglect,[9] the situation being tolerated as the children may not be all found with injuries or killed in such circumstances. However, the serious and sometimes long-term effect must be made more widely known, and families must be supported to use alternative care, occasional child care or residential service rather than leaving children unsupervised and unattended. Legal protection from being left unattended has often been over ruled thinking that education and services should come first and thus leaving a safety gap unfilled for children.

Counseling, therapy and support for child victims insufficient

71. There is serious insufficiency in terms of manpower and resources to ensure child victims receive proper rehabilitation. Good practices and effective NGO programs did not receive due recognition and funding support and thus expertise not allowed to benefit children and families more extensively. Furthermore, the Government piloted batterers' intervention program that only focused on spouse batterers. Despite being proved effective, it lacks funding to develop into a sustainable program.

72. The new funding allocated by the Government for victim support is inadequate and reactive. It only allows one agency to render support for 800 families and only for those already going into the judiciary proceedings. There are many more such reported cases of domestic violence in HKSAR, and everyone of these families required follow up actions for the children and their related family members.

Cyber safety and parent support inadequate

73. Parents have frequent conflicts with their children over their long hours spent on the internet. Parents lack cyber knowledge and skills as well as communication and non-violent child management approaches. The Government's efforts have been merely covering more basic dissemination of information on cyber safety and thus have not gone deep enough. At present, there is no one known body or a designated hotline coordinating such complaints and concerns regarding internet safety. HKSAR's approach is reactive and not proactive in cyber policing and investigation of child rights violation online.

[8] Statistics on Child Abuse Cases captured by the Child Protection Registry of the Social Welfare Department, http://www.swd.gov.hk/vs/english/stat.html

[9] Child Health Survey 2005-2006, Lau YL, et al., 2009, Surveillance and Epidemiology Branch, Centre for Health Protection, Department of Health, HKSAR, http://www.chp.gov.hk/files/pdf/chs_0506_eng.pdf

Alternative care and placement not sufficient in coping with demands

74. Upon decisions made in multi-disciplinary case conferences or by various agencies, some children requiring out of home care have to wait for a long time before foster care or other residential placements are made available. Such situation must be reviewed and improved.

Special resources and support to ensure shared parental responsibility

75. Family break up and divorce is increasing and increasingly affecting children. Increase in resources, education and support to parents and related professionals must be in place to ensure parents do share their responsibility. There is no evidence of such increase in resources.

SECTION V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

76. The breakdown of a parental relationship, whether within a marriage or otherwise, almost inevitably impacts adversely upon the children. The divorce rate in Hong Kong now exceeds 1 in 3 marriages. The number of divorce cases has risen from 9,473 in 1996 to 18,167 in 2010 according to the Census and Statistics Department, an increase of almost 100%. This deserves our utmost attention on children affected in family disputes. Whereas generally children rely upon their parents to uphold their rights, upon breakup, a conflict of interests arises when the family's acquisitions (and children are sometimes regarded as "possessions") are distributed.

77. The Law Reform Commission of Hong Kong issued a consultation paper on this and related topics in December 1998. It published the Report on Child Custody and Access in March 2005, critically analyzing the existing law and procedure and making 72 proposals for amendments in line with the CRC. To date, no steps have been taken to implement those recommendations other than another round of consultation in 2012 on the Joint Parental Responsibility Model. The Government needs to be asked the reasons for the inaction.

78. We do not see the Family Council, an advisory body, established in 2007 has taken any spearheading role to champion for children caught in such situation. So we wish to reiterate our call for the establishment of Children's Commission, so children's voices and interests will be taken care of even in situations of conflict of interests in family breakups.

Article 9: Separation from parents, the right to have contacts with parents, the right to participation in the decision and Article 18: Parental responsibilities

Joint parental responsibility

79. The Law Reform Commission of Hong Kong published the Report on Child Custody and Access in March 2005[10] and proposed the 'Joint Parental Responsibility Model" by legislative means after taking into account the views collected during the consultation exercise as well as relevant overseas legislation and research findings. Almost seven years have lapsed, we doubt the Government's another round of consultation in 2012 on the concept of joint parental responsibility by legislative means was necessary, and we worry a new round of consultation might precipitate unnecessary arguments that might be interpreted by the authorities concerned as "the community does not have a consensus" and delay the necessary actions further. We want to stress that the hesitations and reservations made by the welfare sector and women's groups, should not be interpreted as opposing views. Instead, they have diligently attempted to show the service gaps, so as not to give false hope to children caught in divorced families under the reformed legislation.

[10] The Law Reform Commission of Hong Kong Report on Child Custody and Access, March 2005, http://www.hkreform.gov.hk/en/docs/raccess-e.pdf

80. The authorities should focus on consulting the public on the concrete measures, resources, and services to tie in with the law reform, as well as take steps towards full legislation., This would convince the public that the supportive mechanisms are properly put in place to ensure children benefit from such change, and reduce resistance so as to actualize the notion of Article 9 and Article 18. Relying on the existing already overloaded Integrated Family Services Centres to provide new services as a result of the proposed legislation change is certainly not the way forward. Setting up one-stop service centres at district level to handle family disputes including mediation, counseling, access of the child, parenting skills, family education, case work, and public education with reference to overseas models was one recommendation commonly made by the welfare sector and is worth exploring.

The views of the child, right to participation, and legal representation

81. Children's right to be heard continues to be doubtful throughout the matrimonial proceedings. Children literally do not know that they have the right to express their views in the course, and unaware of the channels. Family Court judges often rely heavily on social workers' reports as a means to hear children's points of view. However, social workers' role is very different from a Child Advocate or Child Attorney from overseas experience, who can actually represent the child's positions and opinions. At present, a judge might appoint an independent legal representative to act and speak on behalf of the child through the Official Solicitor's Office, however, it is seldom the case. The Office handles less than a handful of cases every year in relation to children caught in parents' divorce, and the service is not widely known in Hong Kong. Children are also unaware that they could talk to the judge directly to express their views.

82. We recommend that the language of the Convention should be adopted, so that the term "views" rather than "wishes" of the child is adopted in matrimonial legislation. A statutory checklist of factors shall be established to assist the judge in exercising his discretion in determining custody or guardianship proceedings. We recommend that the child's views should be one element in the checklist of factors, rather than a freestanding section. The child's views should be balanced with the other factors when the judge in making a decision in the child's best interests.

83. Protecting the child should not be an excuse to deny the child's voice in the family disputes. Once the child has indicated a desire to express views, then the court must hear those views, although the weight to be given to the child's views will be a matter for the court to determine. There should be no age limit and the court should be empowered to consider a child's views irrespective of his age. Children should be given the child friendly facilities to express his views if he wishes, whether directly or indirectly. We recommend that the mechanisms for ascertaining and expressing the child's views should be set out in the legislation.

84. We also agree that, in principle, the child should be allowed to become a party in the family dispute proceedings which concern him and where he has sufficient understanding to instruct a solicitor and counsel to represent him. The role of Child Advocate and Child Attorney is worth exploring to support children during the course and enhance children's right to express their views in the matrimonial proceedings.

85. All the professionals involved in the course including judges, counsels and solicitors, social workers, and mediators must be well-trained to handle family disputes involving children. Parents, teachers, social workers, and children must be well informed of the available services in an appropriate way, so they know how to support children during the course.

Article 27.4: Recovery of maintenance of the child

86. Children often have a passive role in parents' divorce. Their future life arrangement depends on the court decision. However, there is no known mechanism to follow up the court orders so that children are at risk of sometimes being left unattended, or facing a life with no economic guarantee.

87. We need a sound reporting and investigation mechanism to follow up on court orders to ensure they have been implemented effectively. We recommend the Government to introduce an automatic attachment of income for a child's maintenance. The present mechanism of liaison between countries and courts after the first application for recovery of maintenance is lodged is too cumbersome often causing massive delays. Direct liaison between courts after the initial contact is made should be facilitated.

88. We called on the Government to follow the Recommendation 14 of the Law Reform Commission of Hong Kong Report on Child Custody and Access published in 2005 "The Administration should review the existing law and procedures relating to the enforcement of maintenance orders to see how they could be made more effective" to ensure the children involved in family breakups are well taken care of.

Article 11: Illicit transfer and non-return

89. Facing the high number of family breakups in Hong Kong, we are particularly worried about the situation of parental abduction across international lines. Parental abduction is a form of child abuse considering the child suffers the trauma of being taken away from home, from his custodial parent and other family members, and of being taken to a foreign place with which he may have little or no connection. His abduction is also an extremely harrowing experience for the child's left-behind family, particularly the left behind parent.

90. Though the Hague Convention has been extended to the HKSAR, Hong Kong residents tend to travel in and out of Hong Kong with a high frequency, in particular to Mainland China and Macau where there is only an identity card control for Chinese permanent residents. It is therefore possible for certain persons to leave Hong Kong for another jurisdiction without a passport. At present, the court in Hong Kong is only authorized to order the surrender of passports to prohibit the removal of a child but not a HKSAR Identity Card (given the legal requirements imposed on HKSAR residents to carry such a card). We urge the HKSAR Government to discuss with the Mainland China Authority and the Macau SAR Government, and find measures to tackle effectively the problem of (parental) child abduction that might happen between these three places. We reiterate our appeal to set up a mechanism to handle the cross-border issues relating to the civil societies between the Hong Kong and Mainland China as mentioned under Article 4 earlier in view of the changing population pattern as a result of the special relationship between the two after 1997.

91. We also call on the Government to quicken the steps in realizing the recommendations made by the Law Reform Commission of Hong Kong in the Report on International Parental Child Abduction[11] in 2002 to tackle effectively the problem of international child abduction.

Article 18: Parental responsibilities

Insufficient assistance to help needy parents and to identify and intervene early in case of needy children

92. Two researches conducted by the Council of Non-profit Making Organizations for Pre-primary Education and The Hong Kong Council of Social Service showed that more support is required for needy parents in fulfilling their parental role. The study on "Potential Crisis in Family with Young Children" conducted in 2008, based on the observation of 730 kindergarten teachers in 100 full day kindergarten cum child care centres, showed that 18% of families with young children (2-6 years old) have a variety of potential family problems and are at high risk of developing into family crisis in future. Among these families, 24% of children were suspected of having emotional disturbance/behavioural problems, 30% of children had suspected developmental delay/short attention span, 17% of parents had suspected emotional disturbance/mental problems, and 36% of parents had difficulties in parenting their young children.

93. Another research conducted in 2011 on "Pre-school Children's Development", based on the parents and teachers report of 2,086 randomly selected 3-6 years' old children samples, in 153 full day kindergartens cum child care centres, also revealed a similar need. Children from parents with low educational level, divorced or one parent family, one or both parents not living with the children, poor couple relationship, seldom have consensus on parenting, employ corporal punishment frequently or with frequent financial hardship, have less desirable development in their conduct, emotion or attention span. Parents also revealed that they lacked support in fulfilling the parental role. 47% of parents never or seldom get help from family/friends and people/organization outside their family; 51% never or seldom get help to improve parenting and 80% never or seldom get help to deal with marital problems when they need help.

94. These researches showed that family factors have caused undesirable development in many young children and the need for more support to parents is obvious. Furthermore, with the continuous rise of child abuse cases, mortality rate of children under 5 years old and the number of children living in single parent families, the overall welfare of Hong Kong children has had a negative development in the past decade. According to the Children Sub-index of the Social Development Index regularly released by The Hong Kong Council of Social Service, there has been a significant drop from -92 to -324 from 2000 to 2010.

95. Young children under 6 years old are the most vulnerable group to be exposed to excessive family stress or problems. However, the Government only relies on carer's visit to Maternal and Child Health Clinic and a multi-referral system through kindergartens and Maternal and Child Health Clinic, as well as some minimal outreaching resources of Integrated Family Service Centres, to early identify and intervene in a large number of at risk families with young children. It is far from enough. This is especially true for the large number of low income, dual working parents, who work more than

[11] The Law Reform Commission of Hong Kong Report on International Parental Child Abduction Report, April 2002, http://www.hkreform.gov.hk/en/docs/abduction-e.pdf

60 hours a week and new immigrant parents or parents from the Mainland China, from whom more than 40% of new babies are born. So far the Government has not responded to NGOs' continuous request for employing more proactive approaches to increase parent support and education, especially to actively make use of existing community networks to reach out to needy parents, such as rendering school social work service in kindergartens, providing regular funding to support outreaching visiting programs to specific target parents, including drug addicts, substance abusers, mentally ill patients, new immigrants, non-Hong Kong citizen parents who stay here with a two-way permit and teenage parents, and provide one stop support to them.

Inadequate support to alternate care

96. Government's support to children from malfunctioning families is also inadequate to meet children's developmental needs. Alternate care, such as children's residential home and foster care are always the last resort and crucial safety net for children who come from malfunctioning families. Most of these children have suffered from inappropriate care since the pre-natal stage and gone through the trauma of child neglect/abuse or/and domestic violence. Government provision to take care of their developmental needs in residential settings is very important to support their healthy development. Yet, the current picture is very undesirable. For example, Government's manpower provision for children home at present is only 1 child care worker to take care of 8 babies/young children (under 3 years old) in day time, and 1:12 at night time. With rising number of children with suspected or confirmed developmental delay or disabilities admitted to the residential facilities, a service provision standard that was set up decades ago can hardly provide children with adequate resources for enough stimulation and the intensive support they need to thrive.

Article 18: Child care services for working parents

Barrier to use quality child care services

97. Although HKSAR has a good mechanism to regulate the quality of child care centre services, many low income working parents in need of child care for 0-3 years old cannot benefit from these services. They do not have the work hours required to qualify for fee remission of full day service nor can they afford to pay for quality child care themselves. As a result, they are forced to depend on Comprehensive Social Security Assistance (CSSA) and cannot lead an autonomous life and enjoy quality child care at the same time.

98. The government started to give out Pre-primary Education Voucher to reduce school fee expenses of parents who have enrolled in a qualified program since 2007. The initiative, however, benefits the general families rather than the dual working parents most in need. Since parents who need half or full day service receive the same voucher value, dual working parents who are most in need of full-day service for their children literally need to pay more than the general families, and with less choices. The policy indicates the Government's lack of awareness of the problems facing by the needy families, and a large amount of public money has been used for subsidizing the wealthy or the less needy families.

Quality assurance of Neighborhood Support Child Care Project

99. To increase the provision of occasional child care service to meet the need of child care at irregular hours, the Government started the Neighborhood Support Child Care Project in 2009. While the welfare sector appreciates the addition of occasional child care service to give more choices to working parents, we also have concerns about the quality assurance and the proper use of the program as the service is provided by volunteers who have received minimal training and only provide the service with an hourly allowance.

Policy gap on services for young children under 6 years old

100. After the harmonization of pre-primary services for children under 6 years old in 2005 between the Education Bureau and the Social Welfare Department (SWD), there are plenty of policy gaps regarding services for young children aged 2-6 years old. The qualification and training of child care workers and kindergarten teachers, government regulations concerning manpower ratio and venue requirements of education and child care setting, the administration and level of parent and operator subsidy for non-profit kindergartens and child care centres, have been harmonized and a Joint Office for Pre-primary Services was set up under the Education Bureau to implement the new policy. However, the best interest of young children is still not being safeguarded. Without a unified policy to oversee the developmental needs of young children while the policy directives are rigidly divided, the welfare of young children is greatly compromised.

101. At present, the Education Bureau is entrusted to plan and implement pre-primary education policy for 3-6 years old and the SWD is responsible for planning child care services for newborns up to 6 years old. This causes a lot of confusion to the operators and the public, in particular the involved stakeholders. One typical example is when the Pre-primary Education Voucher policy was launched in September 2007, only qualified kindergarten teachers' teaching classes for 3-6 years old were allowed to apply subsidy from the Education Bureau to pursue a higher diploma or degree in early childhood education. After rounds of lobbying, although teachers' teaching 2-3 years old classes and Integrated Program were allowed to apply for training subsidy from SWD thereafter, the three different subsidy schemes under two government departments and with very different subsidy levels, rules and duration, have caused heavy administrative workload to the school. The lack of communication between the Education Bureau and SWD in planning new policy for young children has produced great hardship to service operators, caused a higher turnover rate, as well as recruitment problems of pre-school professionals since 2008, harming the welfare of thousands of 2-6 years old children, who rely on full day education and child care services.

SECTION VI. BASIC HEALTH AND WELFARE

Article 23: Disabled children

Overview

102. There is a Disability Discrimination Ordinance in HKSAR, but it is too general to take care of the special needs of children which are very different from adults. We need a clear policy to fully protect children with disability along with their lifelong needs, and we reiterate our call for the need of a comprehensive Child Policy to ensure children's needs are not being compromised in policy gaps.

103. The mindset of the Government is still to treat services for children with disabilities as a charity instead of supporting them to actualize the rights to which they are entitled under the CRC. The services provided by the Government tend to focus on caring, training (e.g. speech therapy, occupational therapy, self-care training, etc.) and education. Disabled children are rarely being consulted and supported to speak out, even disabled children with higher intellectual ability, and on the matters closely related to them. Children in more vulnerable circumstances tend to become an invisible chapter of Hong Kong. We call on the Government to develop platforms and programs, and introduce experts to communicate and collect views from children with disabilities to keep in line with international best practices.

No clear data for children with disabilities

104. There is no comprehensive data bank on child-related data and a lack of specific disaggregated data on children with disabilities. We have urged for a comprehensive data bank on children and the availability of precise data on children with disabilities, disaggregated by sex, age, rural or urban areas, living arrangements and type of disability for many years. There is only a Central Registry for Rehabilitation which is a voluntary registration system for the entitlement of social welfare services. The figures from this central registry deviate severely from the real picture. We request that NGOs and the public should be able to access accurate data of children to plan our services and programs that could reflect the real needs of children.

Insufficient services for children with special needs

105. The assessment service provided by the Government could not catch up with the demand. Many children with special needs remain on the waiting list for assessment and early education and training, and lose valuable learning time at an early stage. Taking the example of the Government-subvented Early Education and Training Centres, due to the overwhelming demand, each child with special needs is required to wait for a period of 12 months before admission, and the number of training sessions they could receive is far from sufficient. Some of the parents then turned to the private market for appropriate training and assistance. However, many children with special needs could not obtain services from the private market due to financial restraints and service shortfall. At present, there are only five Parent Resource Centres to support families of children with special needs in Hong Kong which are subvented by the Government. Children rely very much on parents' care. Therefore, the support to parents is crucial to both the physical and intellectual development of children with special needs.

106. The Government should increase resources in pre-school services to ensure children with special needs could receive appropriate training and guidance at the appropriate time. We suggest the Government to adopt a case management mode with designated worker to follow up on the growth of each child with special needs, and give assistance to the child and his/her family by providing guidance as appropriate. The worker should also pay attention to the need of the family and provide continuous care on such. The suggested service mode may then match with the Individual Learning Plan adopted in special schools in assisting children with special needs during their stay and after they have left their schools.

Children with specific learning disabilities (SLD)

107. The public has an inadequacy of the cognizance of special learning disabilities (SLD), thus only less than 2% of children[12] are hitherto diagnosed with SLD, albeit the figure of 12.6% with different degrees of SLD were extrapolated by The University of Hong Kong in 2006 (Chan, Ho, Tsang, Lee, & Chung, 2006)[13]. Owing to insufficient resources, children are required to queue for 6-12 months to recieve the SLD assessment. This fritters away the students' golden age of learning. We suggest the Government to increase the allotment of resources on training assessment specialists so as to shorten the queuing time.

108. Recently, the Education Bureau inaugurated the New Funding Mode and has been providing schools with additional resources to enhance the support for SLD students. Nevertheless, the application of school resources is rarely monitored; likewise some schools lack transparency in notifying parents of the status of the use of these funding. It is actually questionable whether some schools have utilised the funding on their SLD students properly. We suggest the Government to establish binding school policies to cope with the aforesaid circumstances so that SLD students can be fairly treated at school with comprehensive protection. Besides, the Education Bureau should boost the professional development of SLD pedagogy for both in-service and pre-employment teachers expeditiously. Thereafter teachers can fully realise the educational needs of SLD students and well equip themselves with sufficient teaching knacks and knowledge to support SLD students.

Article 24: Access to health care services

109. *Concluding observation: "to develop policies and programmes to adequately address the problems of malnutrition and obesity in children and to promote breastfeeding through strengthening the implementation of the International Code of Marketing of Breastmilk Substitute in all parts of HKSAR… and through the promotion of Baby Friendly Hospitals in the HKSAR"*

[12] Direct Investigation on Special Examination Arrangements for Students with Specific Learning Difficulties, The Ombudsman, 2008, http://www.ombudsman.gov.hk/concluded/2008_02_01.doc

[13] Chan, D. W., Ho, C. S.H., Tsang, S.M., Lee, S.H., & Chung, K. K.H. (2006). Exploring the reading-writing connection in Chinese children with dyslexia in Hong Kong. Reading and Writing, 19, 543-561.

Overview [14]

110. According to the Student Health Service, 22.2% of primary school and 17.7% of secondary children were overweight or obese in 2008/9, an increase from 16.4% and 13.6% respectively in 1997/8. Prevention of obesity starts at birth through exclusive breastfeeding. Messages on breastfeeding are facing tough competition from the commercial promotion of formula milk. This affects not only breastfeeding for the infant but an over consumption of formula milk instead of a balanced family diet in the young child and an increasing rate of obesity as the child grows.[15] Apart from the current lack of a marketing code for breastmilk substitutes (see below), in 2011 even the Director of Audit urged the Government to rectify the anomaly of only covering pre-packed food for consumption above the age of 36 months when the nutrition labelling scheme was introduced by law in 2008.[16]

111. Although most people know the importance of a healthy life style, obstacles are many in practice including parents who are ineffective or too busy to cultivate good eating habits in their children, children spending too much time doing homework with no time for exercise, indulgence in electronic games or television, schools not providing adequate time for exercise or not restricting the sale of unhealthy food.

Breastfeeding

112. It is disappointing that complaints to the Broadcasting Authority in early 2010 on television advertisements of breastmilk substitutes claiming cognitive advantage with their use were ruled non-misleading by the Authority and required no substantiation of the claim according to the Authority's Code of Practice. This points to the urgent need to implement the International Code of Marketing of Breastmilk Substitutes and subsequent relevant World Health Assembly resolutions in HKSAR.

113. The Department of Health has drafted a voluntary Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children which may be implemented in 2013 if the current strong opposition from the industry is overcome. Being a voluntary Code, the effectiveness is to be seen. Once a voluntary system is introduced, unfortunately it will take a number of years before a more enforceable Code backed by legislation as recommended by WHO could be in place.

114. The discontinuation of free supplies of infant formula to public hospitals which started in 2010 followed by all private hospitals with maternity units in 2012 removes a major obstacle for the hospitals to work towards baby friendly. It is said that public hospitals comply with the Ten Steps to Successful Breastfeeding "in general" but in fact no hospital has

[14] Submission to Legislative Council Panel on Constitutional Affairs on An outline of the topics in the second report on the Hong Kong Special Administrative Region under the Convention on the Rights of the Child, Hong Kong College of Paediatrians, May 2009, http://legco.gov.hk/yr08-09/english/panels/ca/papers/ca0518cb2-1563-8-e.pdf

[15] A Survey of Infant and Young Child Feeding in Hong Kong: Diet and Nutrient Intake 2012, http://www.fhs.gov.hk/english/reports/files/Diet_nutrientintake_executive%20summary_2504.pdf

[16] Report No. 57 of the Director of Audit, Chapter 4, Nutrition Labelling of Infant and Special Dietary Foods, 2011, http://www.aud.gov.hk/pdf_e/e57ch04sum.pdf

qualified as a baby friendly hospital yet. The reluctance to allocate resource for staff provision to oversee the implementation of the Ten Steps and adequately support mothers to breastfeed is a major factor.

115. Although mothers are informed of the benefits of continued breastfeeding on returning to work, the 10-week maternity leave falls far short of the recommendation of International Labour Organization. Furthermore, facilities for breastfeeding mothers and protected time for nursing breaks are not even made a requirement of all existing government or public funded institutions for their employees not to mention the private sector. Hence the exclusive breastfeeding rate at 4 to 6 months was only 14.8% in 2010.[17, 18]

116. It was mentioned in the NGO report of 2005 that women giving birth in HKSAR who did not have resident status, mostly from Mainland China, had to pay more expensive daily hospital fees as from 2003. This resulted in these women presenting for delivery late and discharging themselves from hospital right after childbirth. The fees were further increased substantially periodically and since 2007 as a 2 night 3 day package. Mothers are therefore discharging themselves after a hospital stay of 2 nights often less than a day after giving birth, or selecting to leave their babies behind in hospital and discharging themselves first (babies being born in HKSAR are local residents and pay much lower hospital fees). Either way is not conducive to good postnatal care of mother and baby including the establishment of breastfeeding when Hong Kong does not have a system of postnatal home visits by midwives. Such administrative measures came about from a lack of Child Impact Assessment prior to policy changes and certainly not in the best interest of the child. It would have made quite a difference if, for example, the package included a postnatal stay of both mother and baby for at least 48 hours which is more in line with the duration of hospital stay for mothers who are Hong Kong residents.

117. It is not enough to have a breastfeeding policy for the Department of Health. Hong Kong needs an infant and young child nutrition policy and a multisectoral central committee that oversees the implementation of the policy for the whole of HKSAR.

Air pollution affects young children's healthy development

118. Air quality is poor in HKSAR by international standards with no significant improvement since the last report to the Committee. This affects children's health impairing their physical performance and increasing their respiratory symptoms and admissions with asthma.[19]

17 Submission to Constitutional and Mainland Affairs Bureau on An outline of the topics to be covered in the second report on the Hong Kong Special Administrative Region under the United Nations Convention on the Rights of the Child, Baby Friendly Hospital Initiative Hong Kong Association, May 2009, http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/crc2/16.pdf

18 The World Breastfeeding Trends Initiative (WBTi) Hong Kong Special Administrative Region (HKSAR), China Second Assessment Report 2012, Baby Friendly Hospital Initiative Hong Kong Association, UNICEF, http://www.babyfriendly.org.hk/wp-content/uploads/2012/10/WBTi-HKSAR2012.pdf

19 Air pollution and child health, submission to Legislative Council Panel on Constitutional Affairs, Department of Community Medicine, School of Public Health, The University of Hong Kong, May 2009, http://www.legco.gov.hk/yr08-09/english/panels/ca/papers/ca0518cb2-1610-7-e.pdf

Teenage pregnancy

119. *Concluding observation: "The Committee is concerned of the high incidence of teenage pregnancies and abortions in HKSAR… The Committee recommends HKSAR strengthen its efforts to promote adolescent health, including sexual and reproductive health education in schools, introduce school health services, including youth-sensitive and confidential counseling and care."*

Lack of preventive efforts to tackle teenage pregnancies

120. There is a lack of local studies on teenage pregnancies or abortions. Government data of 2009 showed that with a birth rate of 11.3/1000, 3/1000 were from women under 19 years old. The number of teenage pregnancies (<18 years) remain around 500 to 600 per year since 2000.

121. Sex education in Hong Kong is carried out formally by schools and informally by the Family Planning Association of Hong Kong, Hong Kong Sex Education Association, NGOs with specific interest in AIDS and welfare organizations providing youth services. The sex education is highly restrained by the prevailing conservative and suppressive sexual culture among the adults. Sex remains a taboo and open discussion is discouraged. Emerging needs of adolescents are not met, with no significant breakthrough over the past years since the last report.

122. There is no specific data collection on sexual health of adolescents in Hong Kong. Adolescent sexual health may be reflected by their utilization of services provided by the Obstetric and Gynaecological clinics of the Hospital Authority, the Family Planning service, Social Hygiene clinics and Mother's Choice, an NGO to serve unmarried mothers. Apart from medical health problems, teenage mothers also face multiple difficulties with finance, childcare, parenting, relationships, child custody, and continuing education in school or vocational training for employment in the society. There is a lack of a coordinated approach to address all these issues.

123. There are only under-funded pilot projects serving some of these teenagers using a health and social model to provide them with a one stop service, proactively identifying their challenges and addressing them as a team hopefully to achieve better outcomes for the teenage mothers and their children and reduce intergenerational poverty and teenage pregnancies.

Neglect of teen mothers' needs

124. The needs of teen mothers are always neglected in the welfare system of HKSAR. We do have child development programs and short term service for unwed mothers. Yet, the teen mother is seldom the focus or even the secondary target of the welfare services. In 2008, Caritas Hong Kong alone received 75 teen mothers through the Project Hyacinth who needed follow up services including emotional and tangible support. Over 90% of them were unemployed, early school drop outs, and lacked family support.

125. These girls were either single mothers or their partners were also teens. These teen mothers lose the opportunity for an education and work development that opens up to a better future for them and their infants. There is no guarantee for them to restore schooling after delivery of their babies. Job opportunities are also reduced because of the inadequate community support for baby care. To make matters worse, under the existing welfare system, a teen mother who is under the age of 18 is not eligible to apply for any housing and financial support from the housing and welfare authorities.

126. We urge the Government to allocate proper resources and support services for these teen mothers at the crossroads and to prevent them from having repeated pregnancies. Support should include the offer of guidance service and life skill training, the protection of their right for schooling and work training, as well as regarding teen mothers as an independent unit to apply for their own housing and financial support from the existing HKSAR welfare system.

Mental health of children

127. *Concluding observation: "… expand preventive and therapeutic mental health services for adolescents…, in particular through the development of campaigns specifically designed for adolesents on health-behavioral choices and life skills. It further recommends the HKSAR Government to continue strengthen its efforts to prevent youth suicide."*

Increase of mental health cases among children

128. According to the Hospital Authority, the number of outpatients registered in child and adolescent psychiatry in the past eight years, from 2001/2002 to 2008/2009, had continuously increased. The number of patients within the age groups of 6-12 and 13-19 in 2008/09 are 6,033 and 5,428 respectively. Comparing with the figures in 2001/02, they had increased by 95% and 54% respectively in the past eight years. As some young people and their parents are reluctant to receive any assessment and treatment, the actual numbers may be underestimated.

129. Fig 1: No. of cases in child and adolescent child psychiatry out patient clinics by age and by year (Source: Hospital Authority)

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Age 0-5	833	903	882	899	899	873	770	859
Age 6-12	3 094	3 539	3 552	3 942	4 329	4 840	5354	6033
Age 13-19	3 528	3 952	3 971	4 185	4 425	4 673	5017	5428

130. Referring to the information reported by NGOs to the statistical information system of the Social Welfare Department between 2002-03 and 2006-07, amongst the cases of secondary school students reported by school social workers, the number of cases involving emotional or psychological health problems was between 21,000 and 26,000 per year. The sector also noticed that there was an increasing trend in the cases with dual diagnosis of drug abuse and other mental health problems like early psychosis and mood disorders.

Shortage of child psychiatrists and delay in treatment

131. Using the UK ratio, three child psychiatrists per 200,000 populations as the benchmark, there should be 105 full time equivalent child psychiatrists in HKSAR. However, currently there are only 12 full-time equivalent child psychiatrists in the Hospital Authority. Waiting time for new referrals is approximately 1-3 years for routine cases and 1-2 months for urgent or semi-urgent cases. The average waiting time for first assessment is 1.5 year. Shortage of manpower and long waiting time have delayed the proper care for children in need and increased social cost as a result. Besides, the phenomenon of brain drain of mental health professionals from the pubic to private sector has aroused the concern of NGOs. The cost of services in the private sector is ill-afforded by the average family.

Lack of less labeling but age specific prevention and treatment programs

132. Mental health of children and adolescents, like adults, should be handled properly as it influences every later stage of their lives. Most of our supportive or rehabilitation services do not have age-specific programs or services for children and youth like in-patient services; half way house or most of the existing rehabilitation services are cases in point. Without less labeling but age specific prevention and treatment programs, children and youth with mental health problems are unwilling to use the services or easily withdraw from the service, which in turn leads to failure in school, family conflicts, drug abuse and even suicide. It becomes a great burden to families, communities, the health care system and even the society.

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

133. *Concluding observation: "The Committee recommends that HKSAR establish a poverty line and develop appropriate policies to combat child poverty which addresses widening income disparities while expanding access to social welfare benefits to all vulnerable populations including new immigrants."*

134. HKSAR has not established a poverty line since the last report and this hides the growing problem behind a veil. According to the Census and Statistics Department, there are 297,500 children under 18 years old living under the international poverty line (i.e. medium household income divided by 2). The children poverty rate in HKSAR was 26.7% in 2010.

135. By 2011, 113,483 children or 10.2% of the children population would be Comprehensive Social Security Assistance (CSSA) recipients according to the Social Welfare Department's data in June 2009. 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 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 in 1999 and 2003 and the adjusted standard rates amount to a mere HK$5,540 (US$710). The monthly payment to cover the living expenses of a child is only HK$1,455 (US$187). What is more, as the Government deducted CSSA rent allowance by 15.8% in 2003, over 20,000 CSSA recipients need to squeeze money to pay for the rent. Among them, half of them are families with children. Although inflation is high since 2008, the Government did not resume the deducted amount.

136. In addition, the Government in 2003 developed a new population policy to tighten the support for adult new immigrants who arrived in Hong Kong after 1 January 2004. The residency requirement of CSSA application was increased by one year to seven years. In reality, over 90% of new immigrants are self-reliant. Only a small number with special difficulties in the family apply for CSSA.

137. As child care services in Hong Kong are not comprehensive and adequate, many new immigrants cannot work because they need to take care of their children. For the single parent families, they cannot support themselves without employment. Although the Social Welfare Department emphasizes discretion, only 7,975 cases out of the 24,199 applications for CSSA were successful from 2004 to 2010. There were cases where applications from chronically ill single-parent immigrant mothers were also rejected. The department also requires that new immigrant women, regardless of the number of children under their care or husbands having illnesses, have to earn at least $ 1,775 wage per month as a pre-requisite for the approval of CSSA. However, for the local single parent families with children under 12 years old, they do not need to fulfill any requirement. This is clearly a policy of discrimination against new immigrants, and the poor children suffer because their parents lack financial support to take care of them properly. The policy is putting children at risk of being left unattended.

138. According to the survey on "The livelihood of the low income children" conducted by the Society for Community Organization in 2011, it was found that the underprivileged children had been hungry because their family could not afford food to feed them. It was also found that the CSSA children took much less calories than the normal standard. Their self-esteem was reported to be much lower than other children.

Article 27: Standard of living

139. In 2009, grassroots in HKSAR faced serious financial crisis due to inflation and the financial tsunami. The number of workers with less than $4,000 monthly wage increased from 150,000 to 190,000. These people were usually under-employed and their children suffered most. According to Society for Community Organization's survey on "The effect of financial tsunami to the underprivileged children" released in May 2009, when 140 children were interviewed, it

was found that 95% of the low-income families experienced wage deduction or unemployment. Their wage was deducted by 24% on average. The unemployment rate among them was 24.4% which was four times higher than that of general unemployment rate in HKSAR. The survey also found that half of the children in these families could not afford to have three meals a day. Sometimes they felt hungry and could not concentrate on their studies. They felt anxious as they worried about their family's financial situation. Nearly 50% of the interviewed children told that they need to work to help their family by selling second hand goods.

140. As children do not have enough food and nutrition, we called on the Government to provide daily lunch or breakfast assistance to the underprivileged children. However, the Government only provided 6 weeks' dry and canned food to children from non-CSSA low-income families once or at most twice a year from the food bank. Children from CSSA families are not eligible for any food assistance.

141. Among these poor children, there are still nearly 20,000 children living in what we call "cage homes" (apartment shared by 12 units or above), cubicles (apartment shared by less than 12 units) or roof-top huts. Although paragraph 344 of the Government report stated that the average waiting time for allocation of public housing is 3 years, the recent figures released from the Housing Department stated that 30% of the applicants' waiting is more than 3 years. For those not yet fulfilling the seven-year residency rule, they need to wait for over seven years. Only in 2012, about 2,600 children's applications for public housing have been frozen by the Housing Authority, as they have not yet fulfilled the seven-year residency rule. Many of them are now living in small partitioned rooms, bedspace apartments (caged homes) and the like with their health and safety being poorly monitored. Their average living space per person is only 18 square feet in cage homes and 30 square feet in cubicles (i.e. Survey on the living situation of cage homes and cubicles conducted by the Society for Community Organization in 2009), and the smallest among them was a mere 10 square feet, a far cry from the standard of 70 square feet set by the Housing Authority for public housing. Children living in such dwellings have to share facilities such as toilets and kitchens with other tenants. Such living conditions are extremely unfavourable to the growth and development of children. Furthermore, these places always have poor hygiene, an unsafe vicinity and a heavily polluted environment.

142. Though HKSAR is a small place in geography, the fact is many children never crossover to other districts because they cannot afford the transportation fee. It largely limits the opportunities of children to participate in activities other than within the district that they are residing. At present, only the Mass Transit Railway offers concessionary fares to all school children with no means test. Other transport bodies such as public buses, trams and ferries only offer concessionary fares to children up to 12 years old. As a result, secondary school students tend to be seriously affected. We call on the Government to give pressure on the public transport bodies to extend the concessionary fares to all school children to at least under the age of 18.

SECTION VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Article 28: Right to education

143. HKSAR has offered 9 years of compulsory education to children aged between 6 and 15 since 1978. According to the 2006 By-Census data, the average school attendance rate between 3 to 16 years old was about 96%.[20] With the implementation of the New Senior Secondary academic structure or "334", the 9 years compulsory education has been extended to 12 years free education since 2006. Although most of our children have good access to the right to education, the right to education of children with special learning needs is yet to be protected.

144. A heated debate on excluding special learners from the New Senior Secondary education occurred and followed with a court case when a student with special needs and his parent brought the case to the high court in 2009. Originally, the 8,000 students in 60 special schools were not given equal opportunity to the New Senior Secondary curriculum as they had been forced to leave the schools when they reached the age of 18, even though they had not yet completed the senior secondary curriculum. In other Asian countries, such as Singapore[21] and Taiwan[22], educational opportunities have been provided to special learners up till 21 years old and at the senior secondary levels. After media coverage of the situation that these young people were facing, parents' demonstrations and negotiations with the Education Bureau, the case was finally settled. The lack of flexibility in the education system as this case showed, has reflected the lack of understanding of this article by the Government, and the absence of a Child Impact Assessment mechanism in the policy making process. HKSAR is hardly a friendly city to people with disabilities, neither is the educational system to children with physical and learning disabilities.

Article 29: Aims of education

145. *Concluding observations: "The Committee recommends that the State Party enhance the quality of education in a manner that seeks to reduce the competitiveness of the education system and promotes active learning capacities and the right of a child to play and leisure."*

Difficulties faced by special learners

146. HKSAR schools usually emphasize academic achievement and so do the parents. A school operating the most competitive selection procedures and having students who have reached a high level of attainment is often perceived as a good school (Potts, 1998).[23] Those schools which are attended by less able students are never seen to be good schools. Students with physical impairments and learning disabilities are often marginalized in the mainstream schools. Majority of

[20] School attendance rates (1) by school age group and sex, 2006, Census and Statistics Department, 2007, http://www.censtatd.gov.hk/hong_kong_statistics/statistical_tables/index.jsp?tableID=145&ID=&subjectID=1

[21] Special education: Education path, Ministry of Education. SG, 2010, http://www.moe.gov.sg/education/special-education/path/

[22] Student enrollment in special schools by grade level, 2009, Ministry of Education, ROC, 2010, http://www.set.edu.tw/sta2/frame_print.asp?filename=stuSPC_sch_edulev/stuSPC_sch_edulev_20100322.asp

[23] Potts, P. (1998). 'A luxury for the first world': A western perception of Hong Kong Chinese attitudes towards inclusive education. Disability & Society, 13 (1), 113-124.

them enter the Band Three schools (i.e. lower entrance requirements) though Education Bureau has cut down the original five bands into three to reduce the stigmatizing effect. To encourage special learners to achieve optimal development is rarely realized as an ideal in schools although the policy on integrated education has put forth this ideal. Poon-McBrayer (2004)[24] has identified some major systemic dilemmas, including "reluctance on the part of schools to provide assessment accommodations or to adapt their teaching methods and the prescribed curriculum to meet the needs of students with disabilities, … and a lack of guidelines on the use of the extra monetary resources to improve students' learning (p.252)".

Children cross the border for schooling

147. Another group of children face a similar situation is the more than 12,000 children (i.e. Education Bureau's figures in the 2011/2012 school year) who travel daily across the border between Shenzhen and HKSAR for their schooling in HKSAR. A study conducted by the Association of School Principals in the Northern District (2008)[25] pinpointed that the optimal development of this particular group of children was stifled. These children often feel prejudiced and they have received little assistance to overcome their adjustment problems. Because of spending a lot of time in traveling, they lack the opportunities to take part in extra-curricular activities. Their problems should be solved by collaborative efforts of governments between Mainland China and HKSAR to look for comprehensive and effective solutions to these complicated problems. The call for the establishment of a Children's Commission and Cross-Border Mechanism as mentioned in Section I are definitely urgent and required.

Hardship of school children under new educational system

148. New Senior Secondary education has begun in the school year of 2009/10, under which students will only need to face one public examination and the first new public examination happened in the school year of 2011/12. School management and teachers were very nervous about the academic performance and results of their students that a lot of school work has been added onto the students. It is a fact that many schools have cut the summer holiday and weekend of students, added extra lessons before and after normal school hours, some even cut short the lunch break, and together with more than enough quizzes, tests, and school exams, have seriously contradicted to the original aims of education and seriously affected the right to rest, play and leisure of students that will be mentioned more in the article 31 below. Many students have formed facebook groups to air their discontent about school's management. We urge the Education Bureau to supervise the situation that could continue to deteriorate, and it will affect the physical and psychological health of school children.

Education for all school age children

149. The Hong Kong school curriculum and the teaching methods need to be improved to be more real to what is happening in the society and in the world. For important topical issues, such as human rights, children's rights, sex education, life and death education, social harmony, and many others, there is no formal teaching hours are devoted to each level in school under the current practice. They have become "optional" for teachers. Young people are not well informed in formal education of their rights and responsibilities, and the availability of channels for such rights to be protected in school. HKSAR also lost the golden opportunity to lay firm ground for a responsible, dignified and democratic society to the younger generation through school education.

[24] Poon-McBrayer, K. F. (2004). To integrate or not to integrate: Systemic dilemmas in Hong Kong. Journal of Special Education, 37 (4), 249-256.

[25] Association of School Principals of the Northern District (2008). Responses and support measures to the needs of cross-border students. Hong Kong: Association of School Principals of the Northern District. (In Chinese)

150. Education Bureau and the schools tend to emphasize the home-school cooperation approach with the Parent-Teacher Associations mushrooming in many schools in the recent years. With parents or carers supervision and support, a child learns in a safe and pleasant environment and this helps in maximizing learning. However, it might not be the case for working families and for families with ill support. Special attention and additional resources are needed to support these children most in need.

151. Children encountering adjustment, family, and emotional problems affect their school learning badly. Some even turn to drugs, self mutilation, and high risk activities deserve our utmost attention. These cases, however, are sometimes being ignored or ill treated. Early identification is essential and school personnel should be well trained to provide outside classroom guidance or referral knowledge and skills to ensure needy children receiving early counselling and follow up actions.

152. Punitive approach in school should be addressed. Children found with behavioural or emotional concerns need help and attention. By excluding them in class, shaming or punishing them especially in front of their peers do more harm than good. It should be a policy to ensure rehabilitative and restorative approaches rather than punitive ones. Teachers training should address these concerns specifically and seriously. Teachers should be supported in training and in handling.

Article 31: Leisure, recreation and cultural activities

153. In the report submitted by the HKSAR Government, about 19 paragraphs were shared in the section to report what have been done by the Government in the past years to implement article 31. In these 19 paragraphs, it seemed that the implementation of this article mainly focused on Arts and Cultural aspects, and relied on the work of Leisure and Cultural Services Department as well as two other statutory bodies, ie. Hong Kong Arts Development Council and Hong Kong Academy for Performing Arts. However, article 31 involves many aspects of a children's daily life, such as schools, families, playgrounds, community facilities and even hospitals. Therefore, the successful implementation of this article relies very much on many more government departments and statutory bodies which should have shared responsibilities and have been well coordinated to enforce article 31 in their work for children, such as Hospital Authority and Department of Health, Housing Authority and its Housing Department, Education Bureau, Social Welfare Department, Home Affairs Bureau and its Home Affairs Department.

Inclusive play opportunities for children at disadvantaged circumstances

154. In paragraph 519, the Government report mentioned that there are provisions of accessible playground equipment for disabled children by the Leisure and Cultural Services Department. However, comments from the parents of these disabled children have been received that the opportunities for their disabled children to use playgrounds are far from sufficient. Playright Children's Play Association cooperated with Rehabilitation Alliance Hong Kong in 2008 to conduct a survey about the chance of play for the children with special needs. According to the 253 responses, over 90% of the parents of children with special needs revealed that the chance to play in the community is far from enough. Some of them pointed out that the community recreation facilities could not meet their needs. Although the Leisure and Cultural Services

Department claimed that there is a long list of community playgrounds built with different types of inclusive play equipment for all children in their official department website, there is obviously a big expectation gap between the Government and the needy families.

155. Besides children with special needs, the difficulties faced by the children and parents from low-income families, new immigrants, and ethnic minorities, have also aroused public attention over the social support as well as inclusive play opportunity and provision for them in the community. The increasing media coverage over these unmet needs on play provision for these children reflected a growing concern about the play opportunity for these children.

Provision of Community Toy Library

156. In paragraph 516, the toy library provision in Central Library in Causeway Bay was reported as a way to implement Article 31 in Hong Kong in meeting needs of children. However, throughout these years, there is a rising demand in different districts to set up such a community toy library in regional libraries, but so far the Government did not respond to say if they have any plan to meet such a need.

Provision of quality playable space in community and schools

157. The report mentioned in paragraph 518 that there are around 680 outdoor and 30 indoor playgrounds provided by the Leisure and Cultural Services Department to satisfy the play needs of children in the community. However on the other hand, appeals to the Government for more community-based recreational facilities have been heard from time to time from various local groups and District Councils, especially more remote districts.

158. Despite HKSAR's efforts to house a huge population from 3 million in 1960s to almost 7 million today, and ongoing overcrowding relief exercises, there are still families of four and more living in a room of around 5 to 6 sq. meters. Many children have no place at home to stretch their limbs. Playing outdoors is the possible way out. In past years, news of accidents were heard from time to time, reporting children's injuries or deaths when they reached out in the community, such as cycling in the busy roads, playing around the water fountain without supervision, etc. Appeals to the Government for more recreational facilities were heard from time to time in the media. All these phenomena clearly indicated that our children do need more quality and safe play environments. Moreover, there are still no official statistics showing the number, types of indoor and outdoor playgrounds or other designated play facilities provided in the HKSAR. The need for a Central Data Bank for all matters related to children as mentioned in Section I is urgent.

159. In paragraph 519, the report claimed that Government will choose only those playground equipment items whose design, production and installation have met the international standards. However, there are still no legal requirements or regulations for playground owners in HKSAR to conduct the mandatory annual inspection exercise. As at January 2010, among all major playground owners, only Hong Kong Housing Authority has commissioned independent inspectors to conduct annual inspections to all outdoor playgrounds under its management.

160. Despite there being many paragraphs in this section sharing what the Government has done in schools for children on arts learning through the Hong Kong Arts Development Council and Academy for Performing Arts, there is no paragraph here in the report mentioning about how the Education Bureau should safeguard and implement the children's right to play in Article 31 in school life. Now, most of the work done to resume children's right and opportunity to play in school was initiated by the joint efforts of school headmasters and non-government organizations, without any policy support from the Education Bureau.

Play and recreational opportunities for children in hospitals

161. World-wide practices of play provision for children in hospitals in many developed countries have proved that it relieves children's pain and distress, and that it can ultimately help them to recover more quickly. However, there is a lack of official information and statistics showing all leisure and recreation facilities, measures and programs provided by the Government to children in public hospitals. Now, the major provision of play service and programs in hospitals is made by non-government organizations in several major public ones only.

Inadequate training for child professionals on securing children's right to play

162. Playgroup provision in Hong Kong is growing in popularity for the children below 6. However, the existing ordinances being enforced by Education Bureau, Home Affairs Bureau or even Social Welfare Department cannot regulate the provision of these playgroups for children in terms of safety and professional qualifications. With more and more play practitioners in the community providing play and recreational programs for children, the training and professional development of children's play for teachers, social workers, child care workers and other professionals deserves further attention.

Children's right to cultural sports

163. Cricket is a common cultural sport for children of South Asian origins. Standard venues for cricket in Hong Kong, however, only confined to some club houses which have membership requirements. Children in general, if they want to play the sport, they will occupy soccer field, basket ball court, and the like and turn it into their "cricket" ground. While some district offices of the Leisure and Cultural Services Department exercised their discretion of renting them the venues for cricket purposes, other district offices do not have the same practices. Looking for places for cricket has become a common challenge for a lot of children of South Asian origins residing in Hong Kong. We recommend the Government to build more standard cricket venues for this cultural sport, which can help to promote inclusion in the community through sports. Before these venues are properly built, policy shall be in place for all Leisure and Cultural Services Department offices to allow the rental of possible sites for playing cricket, and the list of sites should be accessible by the public.

SECTION VIII. SPECIAL PROTECTION MEASURES

Article 32: Economic exploitation, including child labour

164. Although the Employment of Children Regulations prohibit young children to work in industrial and non-industrial establishments in HKSAR, children in poverty collecting 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 other children, or have to work part-time jobs after school.

165. According to Society for Community Organization's "Hong Kong Child Labour Survey Report" in 2005, it was found that there were at least 1,900 children who needed to work to help their families in such a prosperous and sophisticated city. It was found that 71% of them made a living by picking through discarded papers, cans and garbage on the street. The others helped their families to work as building cleaner. The median age of the children involved in child labour was 11 years old. The youngest one was 5 years old. 77.4% of them were studying in primary school. 64.5% of them worked to earn money to help their families. 41.9% of them revealed that they helped to relieve the workload of their families. Their weekly working hours were 6.7 hours on average with a mere HK$2.5 per hour. 74.2% of the children felt that it was hard to work. 41.9% of them had been injured in the work environment. 77.4% of them recognized that working affected their academic performance and the time for study. It was reported that most of them could not afford extra-curricular activities or outdoor activities with their families. The self-esteem of these children was lower than that of the other children. All of the interviewees were new immigrant children. Their parents were either grassroot workers or single parent on public assistance. As the wage of the grassroots was decreasing and the welfare was deducted in 1999 and 2003, it was getting much harder for them to make their living. As the hardship has not been relieved in the past few years, there are still many children who need to pick articles on the streets to earn a minute income by selling these used items in recycling shops. The Government has not taken any initiative to address this problem.

Article 33: Drug abuse

166. The HKSAR government launched the pilot School Drug Testing Scheme in the school year of 2009/10 in a bid to tackle the worsening problem of drug abuse among adolescents. Statistics from the Central Registry of Drug Abuse of Narcotics Division showed that there were 3,359 reported cases of drug abuse among the youth under the age of 20 in March 2010. However, the school-based drug testing itself was more of a controversial policy and has been criticized by the community as tackling the problem from one single perspective, whilst it risked infringing students' privacy and human rights, and destroying the school-child relationship that could be irreparable. Other issues such as the impact on children of false testing results, police authority in using the test result for prosecution and follow up measures should actually be considered thoroughly before full scale implementation. We want to reiterate our call for the need of a Child Impact Assessment for any new policy introduced that is related to children.

167. Instead of targeting the physically and psychologically immature children and youth, the Government should tighten the licensing terms of pharmacies as they are one major source of drug purchasing outlets for children and youth. Moreover, punishment should be tougher on persons who solicit children to traffic or produce drugs, as well as the crime itself, to reduce the supply chain of dangerous drugs. Police, Customs and Excise Department and The Ministry of Public Security of the Mainland China should further enhance their intelligence exchange on drug trafficking problems to combat cross-boundary drug abuse. Also, the law enforcement authorities should raid discos and bars more frequently to tackle the drug problem in the local context. We want to see effective intervention made by the disciplinary service to protect our young people from the source of drugs. It is a fact that the price of such illegal drugs is getting lower and lower.

168. We suggested the Government establish one-stop services for children and youth affected by drugs, with a built-in system in school and community that would include prevention, voluntary testing, medical consultation, counseling, rehabilitation and reintegration services for children and youth to achieve the best result and minimize the labeling effect. Some NGOs have piloted these schemes which yielded satisfactory results with a great demand of such services. We need the Government's recognition and financial support by allowing these one-stop services for children and youth affected by drugs to be established in a wider scope in Hong Kong with more weight.

169. We also suggest the Government to expand the existing Counseling Centre for the Psychotropic Substance Abusers to every district, providing a more comprehensive and convenient services for all the drug abusers including children. At present, there are 11 such centres across HKSAR. Also, the rehabilitation centres could provide more vocational training for the trainees, so they could gain more working skills and mentorship. These centres and their services should be promoted effectively in the community. Moreover, the Government should put more effort into integrating rehabilitation services into the formal education setting, so as to ensure children's right to receive mainstream education and prevent them from relapse in the long term.

170. Last but not the least, the Government should put more effort on education to prevent children from taking drugs and say "No" to drugs, as well as equipping their parents and carers with the knowledge and understanding of the issue for effective family interventions. (Appendix 2: Our Concerns on the Government Policy in Tackling Drug Abuse among Children and Youth, by Alliance for Children's Commission, on 31 August 2009)

Article 34: Sexual exploitation and sexual abuse

171. *Concluding Observation: "The Committee recommends the HKSAR to define in a more explicit manner the forms of sexual abuse and increase education and training for professionals working with and for children on the identification, handling and prevention of all forms of abuse; strengthen coordination and follow-up of individual cases of abuse, neglect and maltreatment and ensure that all victims of any form of abuse, and their families, have access to social services and assistance; and ensure handling investigations with any discrimination as to whether the alleged perpetrators are from within or outside the family."*

172. The increase in the number of newly reported child sexual abuse cases in the past ten years (from 152 in 2001 to 307 in 2011, rising 51%) deserves special attention of all parties.[26] More effective treatment and preventive programs are required to ensure rehabilitation and child protection. More cases involving young sexual perpetrators have also increased community concern regarding the problem. The Law Reform Commission of Hong Kong (LRC) recommended in its report in December 2010 the abolition of the common law presumption that a boy under 14 is incapable of sexual intercourse. The Government announced in June 2011 that legislative amendment would be introduced to implement the LRC's recommendation as soon as possible.[27] This change in law will be a fair treatment to the rape victims and a gesture to give better protection to young girls in Hong Kong. However, immature teenage boys aged 10-14 will face a more serious charge and penalty after the change. In addition to legislative measures, the Government shall also focus on addressing the root causes of the offence and adopt preventive, restorative and rehabilitative approaches for the young offenders on par with the UN Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")[28].

173. In recent years, cases with child victims involved in internet sexual abuse and compensated dating caused great concern. Computer technology and the internet enable perpetrators to locate and interact with children more easily than ever before. Teenages become actively involved in compensated dating as it is also closely related to internet activities. Many young people use forum, MSN, and other web platforms to solicit potential customers. "Compensated dating" appears to have originated in Japan. The term originally referred to young girls offering companionship to men (e.g. dating) in return for material compensation. For some, sex became involved in the dating. According to a survey conducted in 2009 with 586 young people aged between 12 and 20, over one-third of the respondents expressed that they would consider engaging in compensated dating, with the reasons: earning quick cash (57%), due to curiosity (30%), and for their own sexual gratification (28%).[29] Compensated dating can be viewed as sexual exploitation of children who are unable to give informed consent.[30] It also has potential dangers to lure them into prostitution.

174. Under the existing law in Hong Kong, it is an offence for a man to have unlawful sexual intercourse with a girl under the age of 16.[31] With the rise of compensated dating, there is no specific law to combat the problem.

175. Educating children and young people on internet safety and the dangers of compensated dating is important. Encouraging parents to strengthen communication with and care for their children could also help combat the problems. Data and statistics from relevant departments and social welfare agencies on internet child sexual abuse and compensated dating should be compiled and more research studies should be conducted to devise appropriate policies and measures.

26 Statistics on newly reported child abuse cases, Child Protection Registry, Social Welfare Department, http://www.swd.gov.hk/vs/english/stat.html

27 Report on The Common Law Presumption that a Boy under 14 is Incapable of Sexual Intercourse, Administration's plan to implement recommendations, June 2011. http://www.hkreform.gov.hk/en/news/20110602.htm

28 United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), United Nations General Assembly, 1985, http://www.un.org/documents/ga/res/40/a40r033.htm

29 Survey on Compensated Dating, Hong Kong Christian Service, 2009, http://www.hkcs.org/commu/2009press/press20090829.html

30 '… any dependent, developmentally immature children and adolescents involved in sexual activities that they do not fully comprehend are considered unable to give "informed consent". For instance, when a child is involved in a sexual act for snacks or money, though the child may say "yes" to the perpetrator, this should not be regarded as an "informed consent" by the child.' Procedural Guide For Handling Child Abuse Cases, Revised 2007, Social Welfare Department

31 The Laws of Hong Kong: Crimes Ordinance (Chapter 200, Section 124)

176. The Government established a sexual conviction record check in December 2011 with the use of administrative measure.[32] Under the new scheme, it only covers new employees who submit to the record check voluntarily. We suggest the Government should have a timetable for mandatory checking. The check should extend to existing staff and volunteers and should be accessible by parents.

177. The Government should have a comprehensive review of sexual offences in the Crimes Ordinance and update policies deemed necessary in pursuit of the goal of eliminating child sexual exploitation. The Government should allocate extra resources for early identification and assessment so as to provide comprehensive protection and support for children. Distinct treatment programs for juvenile and adult sexual offenders can contribute to better child protection by reducing the risk of re-offending and these programs should be included in sentencing options whenever possible. At present, treatment programs for sexual offenders are on a voluntary basis.

Article 35: Sale, trafficking and abduction

178. *Concluding Observations: "The Committee recommends the HKSAR to further develop and enhance systems of early-prevention of sexual exploitation and trafficking; further strengthen its efforts to identify and investigate trafficking cases, to improve the understanding of the issues of trafficking and ensure that perpetrators and ensure that perpetrators are prosecuted; develop and adopt a comprehensive policy to prevent and combat sexual exploitation and trafficking in children, including the root causes and factors that place children at risk of such exploitation; provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children; ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)."*

179. To prevent and combat trafficking in children for sexual and other exploitative purposes, early prevention is needed. Efforts should be made to identify and investigate trafficking cases, understand the issues of trafficking, ensure that perpetrators are prosecuted, and assist trafficked children.

180. The Government has classified child trafficking as a serious crime, but the data registered was limited to human trafficking and no data was recorded on child trafficking. No cases of child sex trafficking was recorded or claimed to have been handled by any party. Data and statistics are lacking from the Government and non-governmental organizations.

181. However, data from a Human Rights Report reflected that Hong Kong is a point of transit and destination for sexual exploitation from Mainland China and Southeast Asia[33]. Hong Kong does not have a comprehensive and sustained campaign specifically against child trafficking. Hong Kong was identified as one of the places that had taken limited

[32] Administration's paper on establishing a sexual conviction record check mechanism for child-related work, Legislative Council Paper No. CB(2)1610/10-11(02). http://www.legco.gov.hk/yr10-11/english/panels/se/papers/se0503cb2-1610-2-e.pdf

[33] Human Rights Report: China (includes Tibet, Hong Kong, and Macau), U. S. Department of State, Bureau of Democracy, Human Rights and Labor, 2008, http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119037.htm

measures to tackle the problem.[34] The findings of a study conducted in 2007 on female sex workers in Hong Kong prisons showed that little or no procedures are in place to allow victims of trafficking to be identified and supported.[35] Among the 58 Mainland China sex workers detained in Hong Kong prisons, 12 of them were trafficking victims. They were deceived by acquaintances who promised to facilitate work for them in Hong Kong. Some were smuggled to Hong Kong by boat. Some refused to be involved in the sex industry but later consented because they were threatened with knives, slapped and deprived of food. They were charged and convicted of immigration offences. The fact that they were deceived into sex work could not be taken as a defense. Only two girls aged 15 and 17 were granted further reductions to their sentences.

182. The Government should have specific laws to protect and assist trafficked children and young people. The Hong Kong authorities should make greater efforts in identifying trafficked victims. Further training should be provided to police and immigration officers to investigate and work with these victims. Trafficked victims should not be just sent back to their places of origin without assistance in rehabilitation. A comprehensive policy to prevent trafficking in children should be in place.

Article 37: Children deprived of liberty and Article 40: The administration of juvenile justice

183. *Concluding Observations: "The Committee recommends that the HKSAR raise the minimum age of criminal responsibility to an internationally acceptable level; abolish life sentences for persons who have committed offences while under the age of 18; ensure that all children under the age f 18 are consistently accorded special protection when coming into conflict with the law, and that their cases are heard in specialized juvenile courts by appropriately trained magistrates, and; ensure that deprivation of liberty is always used as a last resort, and strengthen and expand possibilities for alternative sentencing, such as mediation, probation, community service or suspended sentences."*

Minimum age of criminal responsibility

184. The minimum age of criminal responsibility was raised from 7 to 10 in July 2003. It is still low by international standard. For Mainland China, Taiwan, Macau and Japan in the same region, the minimum age of criminal responsibility is 14 to 16.

185. In obtaining the support of the members of the Bills Committee in raising the minimum age of criminal responsibility from 7 to 10 in July 2003, the Government undertook to propose raising the age further to 12 years of age after putting forward proposals to provide additional supportive measures for unruly children below the minimum age.[36] However, no such move has been observed so far.

[34] Trafficking in Persons Report 2010 – Hong Kong, U. S. Department of State, 14 June 2010, http://www.state.gov/documents/organization/123357.pdf

[35] Robyn Emerton, Karen Joe Laidler, and Carole J. Peterson (2007), Trafficking of Mainland Chinese Women into Hong Kong's Sex Industry: Problems of Identification and Response, Asia-Pacific Journal on Human Rights and the Law, 2:35-84.

[36] In HKSAR Administration's Responses to Suggestions raised by the Bills Committee on Juvenile Offenders (Amendments) Bill 2001, the Security Bureau concluded that "We hope that Members of the Bills Committee will support raising the minimum age of criminal responsibility from seven to ten at this stage. We undertake to propose raising the age further from ten to 12 years of age when we put forward proposals to provide additional supportive measures for unruly children below the minimum age."

186. Concerns have been raised that should the minimum age of criminal responsibility be raised, children under the minimum age will very likely be used as pawns in criminal activities. However, the priority should be to penalize the adult perpetrators rather than to punish and marginalize the immature young people, very often coming from broken families or with no family support. We urge the Government to raise the minimum age of criminal responsibility as pledged but to 14 years, and it should be accompanied by a strong and comprehensive supportive system in line with the United Nations Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) to help the unruly children integrate in the community and be responsible citizens.

Juvenile justice system

187. In coming into contact with unruly children who committed wrongful acts, police should systematically assess if the cases are suitable for referral to Social Welfare Department for follow up or to the Juvenile Protection Section for supervision. It is important not to send a misleading message to the unruly children or the public that nothing can be done and no services or support can be offered to the child if he/she has not reached the age of criminal responsibility.

188. In view of the success of the pilot Family Conference Scheme[37] ("FC"), we hope that FC should also be extended to children below the age of criminal responsibility. More importantly, police should take a more active role in kicking off the procedures, so that more cases could be dealt with in a timely and professional manner.

189. We need to develop a more extensive and comprehensive system of restorative practices for juveniles in Hong Kong to ensure the unruly children would enter the system once their wrongful acts have come to the notice. More resources are needed to strengthen the system and train the professionals so as not to frustrate the process. It is hoped that by raising the minimum age of criminal responsibility to 14, it will translate into a certain attitude in the society that criminalizing our children is not the sole response of the offending child. It will also encourage all those involved in the system to systematically and strategically develop a juvenile justice system that truly appreciates the value of restorative justice in repairing the harm done and empowering all the parties involved including the offender, victim, their family and the society.

190. At present, there are several alternatives in dealing with juvenile offenders other than prosecution and deprivation of liberty, such as Police Superintendents' Discretion Scheme (PSDS) and the "Offering No Evidence" bind-over arrangements. However, frontline social workers observed that the use of these two alternatives has been decreasing in the recent years, though no figure could not be obtained from the police. The Government needs to be asked about that as it could imply a stronger stance of police in using prosecution and conviction methods towards immature children. We also urge the Government to evaluate these alternatives' outcomes and challenges for better improvement of services for children in conflict with the law.

[37] Protocol on Conducting Family Conference for Juveniles Cautioned under the Police Superintendent's Discretion Scheme, Revised in August 2009, http://www.swd.gov.hk/doc/YouthAtRist/FC%20Protocol%20_Revised%20in%20August_2009_%20Eng.pdf /

191. The juvenile justice system is targeted at children and youth, so the system must be child friendly and developed with a strong child perspective. It should ensure that the unruly children and young offenders are fully informed and aware of the nature, choices (such as legal representation), impact and consequences on themselves and the community throughout the entire process.

192. At present, the Juvenile Court in the Magistrates' Courts hears charges against children or young persons under the age of 16, except where the charge is one of homicide. It may also make care or protection orders in respect of children or juveniles. The Government needs to explain why the age range cannot be extended to under 18 to keep in line with the CRC's definition for better protection of children.

About Optional Protocols and Reservations

193. We regret that the three Optional Protocols under the CRC still have not been extended to HKSAR. They included the Optional Protocol on the sale of children, child prostitution and child pornography, the Optional Protocol on the involvement of children in armed conflict, and the new Optional Protocol on a communications procedure. The first and the third optional protocols in particular will have significant impact on children in HKSAR as there is no Children's Commission in the HKSAR that could receive complaints and investigate for children. The Government needs to be asked the reasons for the inaction.

194. The HKSAR Government also needs to explain clearly on the last reservation: *"Where at any time there is a lack of suitable detention facilities, or where the mixing of adults and children is deemed to be mutually beneficial, the Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply Article 37(c) of the Convention in so far as those provisions require children who are detained to be accommodated separately from adults."* This reservation has serious impact on juvenile offenders. The reservation should be removed as soon as possible within a time frame of revision of facilities in penal institutions.

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We hope these reports are just the beginning of the civil society in Hong Kong joining hands in the advocacy of children's rights. We hope the 1.1 million children in Hong Kong will benefit in practical terms by our joint efforts.

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Let's join hands to build a society that respects the rights of children!"

The Hong Kong Committee on Children's Rights

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