

# **A Children's Commission for Hong Kong**

*Shaping the Future*



**Produced for**

**The Hong Kong Committee on Children's Rights**

**By the  
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## 1. Introduction

Children worldwide are regarded as precious in our communities. We think of them as our future and we lavish much attention on their needs as individuals. But as a social group their views tend to be largely overlooked. Why is this so? This is in direct contrast to other social groups who can express their views such as the elderly, the disabled, ethnic groups and even the impoverished.



The reality is: children have no voting rights; they have limited economic and social power; they are vulnerable to manipulation, abuse and ill-treatment; they do not have access to independent advice and advocacy; and they need special attention because of their less mature physical and mental development. **In short, children have limited, and in some cases, no voice.**

For such an important group, **this is a social misalignment that needs to be resolved.** In this report, we attempt to highlight the plight of children through looking at the notion of children's rights from an international perspective, putting Hong Kong into context and submitting ideas based for "shaping the future". This report is the result of desk research and interviews conducted both locally and overseas with the aim of developing a balanced view on children's needs and rights in Hong Kong. We have:

- Researched various reports prepared by governments, non-government organisations (NGOs) and academic institutions commenting on and comparing the means adopted in different countries and sectors dealing with children's rights;
- Interviewed representatives of different sectoral interests for their views on children's rights and the usefulness of institutional mechanisms including a children's commission in addressing child-related issues;
- Presented our preliminary findings at a forum conducted by the People's Council for Sustainable Development on the population issues facing Hong Kong's sustainable future<sup>1</sup>; and
- Provided our analysis of the results of our research, where we consider the possibility of setting up a children's commission, a model that has been adopted elsewhere.

Clearly for Hong Kong's unique situation, we must aim to steer for the right course for our children. Decisions must not be taken in haste, but on the other hand the time to decide is now. As Hong Kong's children say<sup>2</sup>, "You call us the future but we are also the present".

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<sup>1</sup> Forum held by the People's Council for Sustainable Development 30<sup>th</sup> September 2006 on Population Policy and City Vision as part of the second Engagement Process, "Enhancing Population Potential for a Sustainable Future" (2006)

<sup>2</sup> Taken from the theme song of Kids' Dream, the first child-led organisation, launched in Hong Kong on 26 August 2006.

## 2. Children's Rights

On 24th July 2000 the Secretary of State for Culture, Media and Sport launched the office of the first London Children's Rights Commissioner at the Millennium Wheel – better known as the "London Eye". Children then took invited special guests on a half-hour "flight" in the world's biggest Ferris wheel, and showed them how London looks through children's eyes. The Eye is located in a place where a lot of homeless people sleep rough, and a lot of others go to the theatre. At the time it was thought that there were about 25,000 homeless children and young people, out of 85,000 in all, in one of the richest cities of the world<sup>3</sup>.

This story shows that children are subject to the misfortunes of the society they live in, its environment and economy, no matter how well developed. In Hong Kong we are no different to other major cities in the world. We have issues surrounding poverty, education and health care that affect our children. But despite being a powerless group, children will find there are many provisions for them: free schooling, subsidised health-care services, juvenile legal provisions, child counselling, and play facilities. However, a crucial factor missing is the **recognition of children to make decisions for themselves**.



In 2005, a private school in Hong Kong was interviewing candidates to replace its principal, who had retired, and took the unusual step of inviting its students to take part. This initiative was commendable in its principle, but sadly children are rarely asked for their opinions on matters of such significance.

### 2.1 Definitions

The Universal Declaration of Human Rights<sup>4</sup> states that children's rights are part of the basic framework of human rights whereby such rights are "those rights which are essential to live as human beings – basic standards without which people cannot survive and develop in dignity. They are inherent to the human person, inalienable and universal".

Children therefore are **entitled to protection** from abuse and maltreatment by adults, particularly given their vulnerability. This indisputable right sets out the basis for ensuring that children are provided with the right secure and safe environment to develop and the obligation of all adults to address this need. On the other hand, children's rights further point to the **right of access** to basic necessities such as shelter, legal assistance, education, health care and social welfare – a responsibility that governments and other authorities must comply with. The two points are distinct, although not mutually exclusive.

**Furthermore, children have a right to express their opinions and to have their views taken seriously and given due weight.** But they have their own responsibility to respect the rights of others, especially those of their parents.

<sup>3</sup> "The State of Children's Rights in the UK" (2000)

<sup>4</sup> On 10 December 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, "to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction".

## 2.2 *The Plight of Children*

Worldwide, children are accorded limited or no rights in making informed decisions on their own welfare and future. Yet, the United Nations Children's Fund (UNICEF) states, "children have the same general human rights as adults. But children are particularly vulnerable and so they also have particular rights that recognise their special need for protection." The organisation further goes to state that "children are neither the property of their parents nor are they helpless objects of charity. They are human beings and are the subject of their own rights".

The **UN Convention on the Rights of the Child** (UNCRC)<sup>5</sup> has been ratified by 192 of the world's governments, but we still encounter the following:

- **Child labour** - the latest estimates by the International Labour Organisation (ILO) put the number of working children between the ages of 5 to 17 years at 246 million. Among them, 179 million - one child in every eight in the world - are still subjected to the worst forms of labour, which endangers the child's physical, mental or moral well-being.
- **Health care** - UNICEF reports that every year, more than 10 million children die from preventable deaths, some directly from illnesses such as pneumonia, diarrhoea and malaria, others from indirect causes, including conflict and HIV/AIDS. Malnutrition, poor hygiene, and lack of access to safe water and adequate sanitation contribute to more than half of these deaths. Two thirds of these young children who die - at least 6 million every year - need not have.
- **Education** - children living in the least-developed countries, the poorest communities, and the most impoverished households are less likely to be enrolled in, or be able to attend school regularly, as are children in rural areas, or who have a disability or who live in areas affected by armed conflict. Children from ethnic and linguistic minorities face additional barriers, as they struggle to learn the language of instruction.

Getting children in to school is only the beginning. Ensuring they attend regularly and complete their studies with the skills that will allow them to achieve success are the ultimate objectives. Putting every boy and girl in the world in a good-quality primary school would cost between US\$7 billion and US\$17 billion per year - a relatively small amount, says UNICEF, compared with other government expenditures.

- **Poverty** - 40 per cent of all children in developing countries - over half a billion - are struggling to survive on less than US\$1 per day<sup>6</sup>. Poverty is the main underlying cause of millions of preventable child deaths each year, and the cause of life-long damage to children's minds and bodies, perpetuating the cycle of poverty over generations.

**So we can see that the world is not a safe place for children.** They need protection. But, crucially, their views must also be heard.

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<sup>5</sup> The United Nations Convention on the Rights of the Child was drawn up in 1989 and gives children and young people under 18 their own special set of rights. The UNCRC is the world's most widely accepted human rights agreement. It has 54 articles, which are about rights to different things. The UNCRC uses the word "children" to cover young people under 18 as well as children.

<sup>6</sup> UNICEF, "Poverty Reduction Begins with Children" (2000)

### 2.3 Why Do Children's Rights Matter?

There are many reasons for singling out children's rights as a matter for attention.

Children start life totally dependent on others. Hence, they must rely on adults to nurture and guide them so they can grow towards independence. This is ideally found among children's own family members, but when primary caregivers cannot meet these needs, society must fill the gap.

The impact of government action or inaction on children is greater than any of other group in society. Practically every area of government policy (e.g. education and public health) affects children to some degree. Shortsighted policymaking that fails to take children into account will have a negative impact on the future of all members of society by giving rise to policies that are impracticable, inadequate or unrealistic.



**Children's views are rarely heard or considered in the political process.** Children are not commonly involved in political processes. Without special attention to the opinions of children – as expressed at home and in schools, in local communities and even in governments – their views go unheard on the many important issues that affect them or children of the future.

The healthy development of children is crucial. Because they are still developing, children are especially vulnerable to poor living conditions such as those under poverty, inadequate health care, nutrition, sanitation, housing and environmental pollution. The effects of disease, malnutrition and poverty threaten the future of children and therefore the future of the societies in which they live.

In addition, **the costs to society of failing its children are significant.** Social research findings show that children's earliest experiences significantly influence their development<sup>7</sup>. The course of their development determines their contribution, or cost, to society over the course of their lives and positive and timely interventions on children can have beneficial results.

A common error in the analysis of human capital policies is that abilities are fixed at very early ages. However research has shown that basic abilities can be altered in these early stages of life. For instance, pre-school learning shaped by families and non-institutional environments lay the foundation for success (or failure) in school, which in turn leads to success (or failure) in post-school learning. Educational planners and policy makers tend to focus on achievement tests as indicators of early learning – this misses the non-cognitive skills and social competence of individuals.

Lastly, many changes in society have a disproportionate, and often negative, impact on children. Transformation of the family structure, globalisation, shifting employment patterns and a shrinking social welfare net in many countries all affect children. The impact of these changes can be particularly devastating in situations of armed conflict and other crises.

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<sup>7</sup> Heckmann, James, "Invest in the Very Young" (2000)

## 2.4 Tackling the Issues through the UN Convention on the Rights of the Child

In 1989, world leaders decided that children needed a special convention as it became widely recognised that people under 18 years old needed special care and protection. The leaders further wanted universal acknowledgement that children have human rights.

The UNCRC that evolved from these discussions became the first legally binding international instrument to incorporate the full range of human rights – **civil, cultural, economic, political and social rights**. These are set out in 54 articles and two optional protocols<sup>8</sup> spelling out the basic human rights that children everywhere have: the right to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.

By agreeing to undertake the obligations of the convention, national governments have committed themselves to protecting and ensuring children’s rights and have agreed to hold themselves accountable for this commitment before the international community.

Governments also have an obligation under the UNCRC to amend and create laws and policies to fully implement the convention. As a result, the convention has triggered a process of national legal reform and social change in all regions of the world. Laws have been amended to take into consideration the best interests of the child and social policies that promote the attainment of children’s rights have been formulated.

In summary, children, being a vulnerable group, have specific needs that adults worldwide must recognise.

Survival and development rights	These are rights to the resources, skills and contributions necessary for the survival and full development of the child. They include rights to adequate food, shelter, clean water, formal education, primary health care, leisure and recreation, cultural activities and information about their rights. These rights require not only the existence of the means to fulfill them but also access. Specific articles address the needs of child refugees, children with disabilities and children of minority or indigenous groups.
Protection rights	These rights include protection from all forms of child abuse, neglect, exploitation and cruelty, including the right to special protection in times of war and protection from abuse in the criminal justice system.
Participation rights	Children are entitled to the freedom to express opinions and to have a say in matters affecting their social, economic, religious, cultural and political life. Participation rights include the right to express opinions and be heard, the right to information and freedom of association. Engaging these rights as they mature helps children bring about the realisation of all their rights and prepares them for an active role in society.
Interconnection of rights	In addition to governments’ obligations, children and parents are responsible for respecting the rights of others—particularly each other. Children’s understanding of rights will vary depending on age and parents in particular should tailor the issues they discuss, the way in which they answer questions and discipline methods to the age and maturity of the individual child.

**Table 1. UNCRC Rights of the Child**

<sup>8</sup> Articles lay out the obligations of those states choosing to be bound by it and procedural matters involving the treaty. Protocols are additional legal instruments that complements and add to a treaty and are used to address a new or emerging concern or add a procedure for the operation and enforcement of the treaty. A protocol is optional because it is not automatically binding on states that have already ratified the original treaty.

## **2.5 Implementing the Principles**

At national level, governments can choose to become parties to the UNCRC by signature and ratification or by accession<sup>9</sup>. In ratifying the convention or an optional protocol, the government concerned accepts an obligation to “respect, protect, promote and fulfill the enumerated rights by adopting or changing laws and policies that implement the provisions of the Convention or Protocol”.

**Reporting is essential** and the ratifying government must report to the Committee on the Rights of the Child, which is the body of experts charged with monitoring the implementation of the convention and optional protocols in different countries. These reports outline the situation of children in the country concerned and explain the measures taken by the national government to realise their rights. In its reviews of the various reports, the committee has laid down the following general guidelines for implementation of the convention:

- Develop a comprehensive national agenda;
- Develop permanent bodies or mechanisms to promote co-ordination, monitoring and evaluation of activities throughout all sectors of government;
- Ensure that all legislation is fully compatible with the convention and, if applicable, the optional protocols, by incorporating the provisions into domestic law or ensuring that they take precedence in cases of conflict with national legislation;
- Make children visible in policy development processes throughout government by introducing child-impact assessments;
- Analyse government spending to determine the portion of public funds spent on children and to ensure that these resources are being used effectively;
- Ensure that sufficient data are collected and used to improve the situation of all children in each jurisdiction;
- Raise awareness and disseminate information on the convention and the optional protocols by providing training to all those involved in government policy-making and working with or for children;
- Involve civil society by including children themselves in the process of implementing and raising awareness of child rights; and
- Set up independent national offices – ombudspersons, commissions, focal points within national human rights institutions, or other institutions – to promote and protect children’s rights.

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<sup>9</sup> Ratification is an act by which a state signifies an agreement to be legally bound by the terms of a particular treaty. To ratify a treaty, the state first signs it and then fulfils its own national legislative requirements. Once the appropriate national organ of the country – Parliament, Senate, the Crown, Head of State or Government, or a combination of these – follows domestic constitutional procedures and makes a formal decision to be a party to the treaty. The instrument of ratification, a formal sealed letter referring to the decision and signed by the state’s responsible authority, is then prepared and deposited with the United Nations Secretary-General in New York. Accession is an act by which a state signifies its agreement to be legally bound by the terms of a particular treaty. It has the same legal effect as ratification, but is not preceded by an act of signature.

## 2.6 Review of Countries' Experiences in Implementing the Convention

In practice, countries have adopted different approaches to ratifying and implementing the UNCRC. The following is taken from UNICEF's 2004 report on the progress of implementation<sup>10</sup>.

### 2.6.1 Law reform

Many countries have incorporated the UNCRC into their national legal framework. In some, the convention was automatically integrated into the legal framework by existing constitutional principles or legislation adopted specifically for that purpose while others have promoted the incorporation through constitutional reform. The provision of children's rights is most pronounced in Latin America and Central and Eastern Europe.



One important characteristic of law reform is an increased recognition of the **right of the child to be raised in a family environment and the right of families to state support and assistance**, in fulfilling their child-rearing responsibilities. This is prevalent in countries in Asia, Central and Eastern Europe and Latin America.

Health care has been given major attention in the process of law reform. All codes adopted in Latin America contain provisions on the right of the child to health and many also include provisions concerning the right of mothers to pre-natal health care and other maternity benefits. In other parts of the world, there is a myriad of new legislation concerning a child's right to health, including Nigeria and South Africa; India, Nepal, the Philippines and Vietnam, Egypt, Libya, Jordan, Belarus, Poland, Georgia, Romania, Russia, and Sweden.

New laws on education have been introduced in Bangladesh, Lebanon, Jordan, Morocco, Pakistan, Sudan, Syria, Tunisia, Belarus, the Czech Republic, Poland, Slovenia and Russia. In Africa and Asia, in the light of the UNCRC, Nigeria, South Africa, Togo, Sri Lanka and Vietnam have enacted or amended laws on education to raise the school-leaving age and to bring national law and practice into harmony with other provisions of the convention – for example, by recognising the right to be educated in the language of national minorities, by calling on educators to respect the freedom of opinion of students, by prohibiting the use of physical punishment and by incorporating activities designed to promote democracy, tolerance and gender equity into educational programmes.

It is important to note that many countries have made changes in legislation concerning child labour. Many have raised the minimum age for employment – for example, from 8 to 13 years in Lebanon, from 12 to 14 in Sri Lanka, and from 13 to 15 in South Korea. Some also raised to 18 the minimum age for dangerous or unhealthy work.

However, law reform in regard to **juvenile justice** has been slower than in other areas, because it is so complex. In many countries where legal changes have been introduced only a few relevant aspects have been addressed. Extensive reforms have been made in Tunisia and Morocco, as well as most of the countries of Latin America.

<sup>10</sup> UNICEF, "Study on the Impact of the Implementation of the Convention on the Rights of the Child" (2004)

Elsewhere, including Nigeria, India and Pakistan, legislation has been adopted at the federal or central level, but legislative and other action is required at the state or provincial level for implementation.

## **2.6.2 National Institutions**

There has been a rapid proliferation of independent national institutions for children's rights – such as **children's ombudsperson's offices and commissioners for children**<sup>11</sup> – over the past 15 years. This is a reflection of national commitment to achieving effective implementation of the UNCRC.

The importance of having independent national human rights institutions to protect everyone's human rights, with appropriate mandates and powers set out in legislation, has been highlighted for more than a decade, including at the 1993 World Conference on Human Rights. Many human rights commissions and ombudsperson's offices with a general human rights mandate have been established in countries across regions. Also in 1993, the General Assembly of the UN endorsed a set of "Principles Relating to the Status of National Institutions", known as **the Paris Principles**, through which it identified the distinct requirements for these bodies<sup>12</sup>.

With the almost universal ratification of the UNCRC and the consideration of children as rights-holders, there has been a growing acceptance that at national level special attention must be paid to the promotion and safeguarding of children's rights, including through the design of special **independent** institutions or special focal points within national human rights institutions.

The distinct advantages of such institutions are:

- Generation of widespread awareness and understanding of the rights of children;
- Review of adequacy and effectiveness of law, policy and practice as it relates to the rights of children and young people;
- Review of efficiency of spending into child-related services as well as identifying best practices of such service providers;
- Availability of channels for children and their representatives to voice out specific concerns;
- Opportunities to research into matters relating to the rights of children and young people; and

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<sup>11</sup> In many countries, **special commissions** have been established to ensure that the laws and regulations concerning the protection of human rights are effectively applied. Most commissions function independently from other organs of government, although they may be required to report to the legislature regularly. In keeping with their independent nature, commissions are generally composed of a variety of members from diverse backgrounds but each with a particular interest, expertise or experience in the field of human rights. An **ombudsperson** is an official, usually (but not always) appointed by the government or by parliament, who is charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens.

<sup>12</sup> The **Paris Principles** relate to the status and functioning of national institutions for protection and promotion of human rights. In October 1991, the Centre for Human Rights convened an international workshop attended by representatives of national institutions, states, the United Nations, its specialised agencies, intergovernmental and non-governmental organisations to draw up a comprehensive series of recommendations on the role, composition, status and functions of national human rights instruments. These recommendations were endorsed by the Commission on Human Rights in March 1992 (resolution 1992/54) and by the General Assembly in its resolution A/RES/48/134 of 20 December 1993.

- Independent monitoring and reporting of government policies in line with the requirements of the UNCRC.

The first model of a Children's Ombudsperson was developed by a non-governmental organisation (NGO) – Radda Barnen (Save the Children Sweden) – and promoted during the International Year of the Child (1979). In 1981, Norway became the first country to establish through legislation an Ombudsperson for Children. Costa Rica followed in 1987. Now, with more than 60 individual independent human rights institutions for children existing in at least 38 countries around the world, the development can best be considered in the context of the global movement to implement the UNCRC.

In 1997, a European Network of Ombudspersons for Children was established and there are informal networks in Latin America and in the Pacific region. At the global level, a similar process is taking shape through a network set up in 2002 and which is supported by UNICEF.

In many countries, these institutions have become highly visible, and can point to many instances of their contribution leading to substantial action favouring the rights of children. Some have pioneered innovative ways of working directly with children and young people on advocacy of their rights. Without the active presence of these independent institutions for children it is unlikely any results would have been as visible as quickly as those that this approach yielded.

In some cases, these institutions have been developed at the sub-national level: for example, the distinct institutions for the Flemish and French communities in Belgium, in each of the districts of Austria, and within the United Kingdom in England, Wales, Scotland and Northern Ireland. Two institutions, in Luxembourg and Denmark, have a committee structure. In Latin America, there are at least five countries with an identified children's ombudsperson or a focal point on children's rights within national human rights institutions.



In Africa, the first separate children's ombudsperson's office was established in Mauritius in 2003 and there is a specialist commissioner for children's rights within South Africa's Human Rights Commission. There are institutions in Canada and New Zealand, while in Australia children's commissioners have been established in New South Wales, Queensland and Tasmania and there is also a focal point within the federal government.

### **2.6.3 Current Status**

To date, there are more separate children's rights institutions than institutions subsumed under more general human rights offices. This probably arises from the concern, expressed by many that, traditionally, **children's rights have not been given distinct and appropriate attention within a "general" institution.** On the other hand, there have been other expressed concerns that separation may lead to marginalisation, rather than mainstreaming within the overall promotion of human

rights. In addition, there has been the voiced objection that a children's rights institution could serve to erode parental authority.

To counter these views, it is important to recognise that the fundamental purpose of national independent institutions is to promote and safeguard the rights of children. Most acts establishing these bodies anchor their work directly on the UNCRC, requiring that the institution monitor compliance with the convention and other relevant international instruments on children. It is their legislative base and power, and gives these national independent institutions their authority and legitimacy, adding transparency and visibility to their mandate.

Legislation also clarifies their distinct role vis-à-vis other mechanisms and institutions, including child-related parliamentary committees, judicial bodies on children and NGOs. Legislation is, in particular, required to secure independence of actions and resources.

Statutes establishing institutions vary in length and detail. The older, "separate" institutions – Norway's and Sweden's Children's Ombudsman, for example – have a very short Act establishing the general functions, duties and method of appointment, complemented by more detailed "instructions". More recently, in the main, separate institutions have been established by much more detailed legislation, building on the minimum standards required by the Paris Principles and adding powers and duties specifically related to the promotion and safeguarding of children's rights.

Concluding observations would be that the establishment of an **independent institution** is favoured for countries that do not already have one, framed by the Paris Principles and its own general comment. Where an institution has been established, it should be appropriately resourced and establish direct contacts with children. A child-friendly complaints procedure should be established and, where necessary, stronger legislation as well as more safeguards to ensure institutional independence. Other findings include:

- The need for accountability of the body to the relevant higher authorities;
- The independence of monitoring and reporting even though it would generally be funded by government revenues;
- The ability to work closely with authorities and decision-making bodies; and
- The need to be practical and not add further levels of bureaucracy.

But, in practice, many fall short in one way or another of the independence demanded by the Paris Principles, either because of their legislation, method of appointment, source of funding, or methods of working:

- Some have been established initially with a child welfare or protection remit and not with a clear mandate to safeguard children's rights.
- Some are actually government agencies – important and valuable to advance the agenda on children, but not fulfilling the role of independent institutions.
- Some are appointed directly by government ministers and with no requirement to consult outside government. Governments can, in some cases, direct the ombudsperson or commissioner to carry out functions on its behalf.

In some cases in the implementation of the UNCRC, there seems to be a blurring of the borders between the responsibilities of government and the role of independent institutions. For instance, while the national institution plays an important role in

creating awareness and disseminating information on children's rights, these functions are not designed to replace the responsibility of the state to fulfill its obligations to make the UNCRC and its provisions well known to adults and children by active and appropriate means.

Some countries have established **co-ordinating mechanisms** at the national and, in some cases, the state, provincial and local levels. It is clear that co-ordination is critical to "making government work for children". The range of existing mechanisms is vast – among them children's units in the offices of heads of state or government; committees and commissions for children; departments for children's rights; ministries for children or youth or both; and national councils for children and the rights of the child. There is a particular flourishing of co-ordinating bodies in Latin America that may in part reflect the widespread introduction of children's codes, many of which link the functions of co-ordinating mechanisms to the rights and principles recognised by the code.

In summary:

- Each country needs to adopt its own model for implementing the principles of the UNCRC;
- This will vary according to its constitutional format; but
- There must be a firm legal basis for a national body charged with overseeing this implementation as well adequate funding and resourcing;
- There is a distinction between a children's commission and an ombudsperson, however, whichever institutional form is selected it must be independent of the government to give objective advice; and
- The advantages of having independent children's commissions has been the coordination of policy, efficiency in utilisation of resources and support to

## **2.7 Case Studies**

Below are summarised case studies of individual countries in setting up national bodies such as children's commissions and their stated roles.<sup>13</sup>

### **2.7.1 Norway**

Established the world's first **Ombudsman for Children** in 1981. Norway's approach to children's rights was to form an ombudsman through the Child Act "to solve conflicts between children and parents and children and employers in institutions ... and have the task to work more generally to promote children's rights". Part of the Department of Children and Youth Policy under the Ministry of Children and Equality, the ombudsman's office serves as an independent, non-partisan politically

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<sup>13</sup> Useful references as follows:

Norway: <http://odin.dep.no/bld/english/ministry/minister/bn.html>,

<http://www.barneombudet.no/english/>

Scotland: <http://www.sccyp.org/>

Canada: [http://www.gov.bc.ca/cyo/down/2005\\_06\\_strategic\\_plan1.pdf](http://www.gov.bc.ca/cyo/down/2005_06_strategic_plan1.pdf),

[http://www.gov.bc.ca/cyo/default\\_menu\\_js.htm](http://www.gov.bc.ca/cyo/default_menu_js.htm)

China: <http://www.china.org.cn/english/2005/May/130426.htm>

India: <http://www.stolenchildhood.net/entry/india-soon-to-launch-national-comission-for-children/>,

<http://www.indiatogether.org/2003/jul/chi-ncc.htm>

New Zealand: <http://www.occ.org.nz/>

Australia: <http://www.kids.nsw.gov.au/>

neutral institution lead by a personally appointed ombudsman, who is formally under the jurisdiction of the ministry.

The officer's duties are to promote the interests of children vis-à-vis public and private authorities and to follow up the development of conditions under which children grow up. There are three main areas of focus:

- **Safety measures:** all efforts and initiatives the government and society have established, in order for vulnerable children to be intercepted by, for instance, child welfare authorities.
- **Participation:** the society's ability to listen and act on behalf of children, their experience and expertise as well as letting children and youth be a part of the ever changing society.
- **Conditions for growth:** an extensive concept to cover the basic ideas such as education, health and culture.

The office of the Ombudsman receives its budget from the ministry, and has a staff of 15. The budget for 2005 was 8.3 million Norwegian krone (\$10.3 million). The Ombudsman's budget is passed by the parliament as part of the state budget, but neither the parliament nor the government has the power to instruct the Ombudsman.

In a review of the Ombudsman<sup>14</sup>, an independent body found that the work with information on children's rights in different connections had helped to make the rules of law more effective. Internationally, the Ombudsman had helped to put children on the agenda as many countries began to emulate Norway's model. Further suggestions for the enhancement of the office's role included the need to network further with local government agencies and other bodies, a wider remit in the education of parents and deal with the transition of children into youths.

## 2.7.2 Scotland

Scotland's first **Commissioner for Children and Young People** was appointed in April 2004 to promote and safeguard the rights of children and young people, consider and review the adequacy and effectiveness of any law, policy and practice as it relates to the rights of children and young people and undertake research on related matters. The impetus for setting up the commission came after a campaign by NGOs working with children, which led to a committee bill in the Scottish Parliament.

The commissioner is not, however, responsible for investigating cases relating to the rights of and provision of services for individual children. This is done by the Children and Families Division of the Scottish Executive, which is responsible for ensuring that local authorities (including the education, social work and housing departments, health boards, children's reporter services and voluntary organisations) and other relevant agencies and organisations co-ordinate to plan services and support for children and families



<sup>14</sup> Summary of the Committee's conclusions from the Norwegian Official Report on The Commissioner for Children, and Childhood in Norway (NOU) 1995:26

in each area. The plans link with other relevant local plans, including the child component of the local Health Plan, the local Education Improvement Plan, and the wider Community Plan.

Whether necessary or not, a function of fragmented organisational structures is often competition and protectionism in the allocation and use of resources that contradicts concerns with best value. A head teacher's unwillingness to invest £40 per week in classroom assistance leads to the social work department in the same council to spend £400 per week on an excluded child.

**(Scottish Executive)**

Under Section 19 of the Children (Scotland) Act 1995, each local authority has a statutory duty to prepare plans for the provision and development of children's services in their area, with the funding and guidance provided by the Scottish Executive. The local authority is also required to publish information about the full range of children's services that it provides or purchases, including early education and child care, social work, adoption, fostering and residential care, as well as youth justice and youth services. The main sources of public funding are provided through block grants from the Scottish Executive to local authorities and National Health Service (NHS) Health Boards. Local authorities can also raise income for local services through council taxes.

A compact between the government and the voluntary sector signed in October 1998 forms an agreement on the principles of working in partnership, based on a mutual understanding of the distinctive values and roles of the Scottish Executive and Scottish Parliament and the voluntary sector. In a communication<sup>15</sup> received from the Commissioner's Office, the level of independence from the Executive is stressed (which does not pose the same problems of funding experienced by other UK Children's Commissioners) but accountability to the Scottish Parliament is paramount.

One notable role of the office is the Policy and Research element which helps the Commissioner maintain vigilance on developments in the Scottish Parliament (e.g. looking at which new laws may affect children and young people's rights) and which also conducts and publishes research into issues that are important to children and young people. An important development of this work has been a model for carrying out **children's rights impact assessment** to facilitate the review of law, policy and practice as step-by-step guide with template forms for conducting assessments. Children's rights impact assessments are a way of looking at decisions, policies or legislation and identifying and measuring their effect on children and young people and their rights<sup>16</sup>.

### 2.7.3 Canada (British Columbia)

The **Children's Commission of British Columbia** was set up in 1996, and the Child and Youth Officer appointed in 2002 with legislated authority to serve the children and youth of the province. The formation of this body came about from the realisation that resources for child protection services were being duplicated through various offices such as the Child and Youth Advocate, the Coroner's Service, the

<sup>15</sup> Correspondence from Scottish Commission for Children and Young People dated 26<sup>th</sup> October 2006.

<sup>16</sup> The Children's Rights Impact Assessment Model can be found on [http://www.scyp.org/webpages/pr\\_single.php?article=Children's%20Rights%20Impact%20Assessment:%20The%20SCYP%20Model&id=27](http://www.scyp.org/webpages/pr_single.php?article=Children's%20Rights%20Impact%20Assessment:%20The%20SCYP%20Model&id=27)

Ombudsman and the Public Guardian and Trustee, but tellingly still missing crucial cases which led to fatal outcomes<sup>17</sup>.

The Child and Youth Officer's mandate is set out in the Office for Children and Youth Act and he serves to work collaboratively with children, youth, families, communities, and governments to improve access to relevant government services, ask questions and gather information and perspectives on the effectiveness, responsiveness and relevance of services and advise on what has been learned and by sharing ideas for improvement with communities, governments and the public.

The officer focuses on government-funded services for children and youth, including but not limited to:

- Family support, child protection, adoption and guardianship;
- Early childhood development and care;
- Children and youth with disabilities;
- Child and youth mental health;
- Addictions;
- Youth justice; and
- Transition to adulthood.

The Child and Youth Officer<sup>18</sup> receives funding from the provincial government as an operational budget of Can\$2.3 million (about \$15.8 million) to run two offices with 20 staff. In 2005, the list of achievements<sup>19</sup> included:

- An overall plan and structure for responding to requests for advocacy support as well as an advocacy team to provide more focus and consistency in the Office's approach to individual disputes and complaints.
- Hiring of Youth Participation Co-ordinators with responsibility for promoting, facilitating and supporting the involvement of youth in all areas of the Office's work.
- Working collaboratively with stakeholder groups interested in areas such as aboriginal youth suicides, community healing and early childhood development; and
- A joint project with the Provincial Health Officer to look at outcomes for children in care.

## **2.7.4 India**

The **National Commission for Children** was formed by the Ministry of State for Women and Child Development in 2001 with the intention of establishing individual commissions for children in every state, to prevent child abuse and to protect their rights. Resources have already been invested



<sup>17</sup> BC Children and Youth Review by the Honourable Ted Hughes (April 2005)

<sup>18</sup> The officer's title will be changed to Representative for Child and Youth

<sup>19</sup> Child and Youth Officer for British Columbia Annual Report 2004-2005

in integrated child-development centres across the country.

However, there is still debate in the Indian Parliament on the constitution of the commission, including its composition, structure and role. A major area of concern is the presence of children in the forefront, with organised representation from the working, school-going and disabled segments. The adult members of the commission, based on those who are capable of understanding children and their rights, are still under discussion.

As well as legal experts, doctors, counsellors and government officials, it is expected the commission will include representatives of the National Movement of Working Children.

To date though the Commission is still yet to be set up<sup>20</sup>.

### **2.7.5 China**

The **National Working Committee on Children and Women** under the State Council was founded on 22 February 1990. It is a State Council organisation in charge of women and children's work and its responsibilities comprise co-ordinating and promoting relevant government departments to implement laws and regulations and policy-related measures concerning women and children.

There are 33 ministries, commissions and NGOs represented on the committee, including the National Development and Reform Commission; the Ministry of Foreign Affairs; the Ministry of Education; the Ministry of Science and Technology; the State Ethnic Affairs Commission; the Ministry of Public Security; the Ministry of Civil Affairs; the Ministry of Justice; the Ministry of Finance; the Ministry of Personnel; the Ministry of Labour and Social Security; the Ministry of Culture; the Ministry of Health; the National Population and Family Planning Commission of China; the State Administration of Radio, Film and Television; the State General Administration of Sports; the State Press and Publication General Administration; the Legislative Affairs Office of the State Council; the China Disabled Persons' Federation; the Central Committee of Communist Youth League; and the All-China Women's Federation.

Since its founding, the committee has adhered to the principle of first call for children and children's survival, protection and development by assisting the State Council to draw up and promulgate the National Programme for Children's Development (2001-2010), part of the Tenth Five-Year Plan. The programme has four key areas:

- Child and health;
- Child and education;
- Child and legal protection; and
- Child and environment.

The committee serves to co-ordinate and promote relevant government departments to strengthen legislation and work out measures in state macro-policies, laws and sectoral policies, and well as in social security and services, to push forward the cause of children as a whole particularly the implementation of the UN's Convention on the

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<sup>20</sup> "India Soon to Launch National Commission for Children", [www.stolenchildhood.net/entry/india-soon-to-launch-national-commission-for-children/](http://www.stolenchildhood.net/entry/india-soon-to-launch-national-commission-for-children/)

Rights of the Child and other international conventions on protecting children's rights and interests.

### **2.7.6 Australia (New South Wales)**

The New South Wales (NSW) **Commission for Children and Young People** was formed as an independent organisation in 2000, following a report by the Royal Commission on the NSW Police Service<sup>21</sup>, which identified serious, systemic failures that put children and young people at risk of abuse. The commission found there was no single voice speaking for the interests of children and young people in NSW and recommended the establishment of a Commission for Children to advocate for their safety and welfare. Children, young people and others were consulted on establishing the commission. The commission reports directly to the NSW Parliament and is overseen by the Parliamentary Committee on Children and Young People.

Its work is guided by the following principles:

- The safety, welfare and well-being of children;
- The views of children and young people;
- The relationships between children, their families and their communities; and
- Priority for vulnerable children and young people.

However, the commission has no power to investigate individual complaints about unfair or illegal conduct relating to children, but does carry out research and monitor of trends in child welfare, safety and well-being, advise government and non-government agencies, inform and educate children, the community and professionals and conduct enquiries into issues important to children.

The Committee on Children and Young People is a joint statutory committee that, in addition to monitoring and reviewing the work of the commission, has a broader responsibility to examine trends and changes in services and issues affecting children and young people.

Core funding comes from the State Government of NSW, though some income is received from investments, sales of publications and seminar fees. The commission also receives grants and other income from a range of sources for particular projects. The commission has formal and informal links with a range of government agencies. The commissioner is a member of the state government's Chief Executive Officers Council and the Human Services Chief Executive Officers Forum, and the commission is represented on many government committees.

There were 47 staff employed in the Commission as at 30 June 2005. Of these staff, there is a Chief Executive Officer, with all other staff employed under the Public Sector Employment and Management Act 2002. Funding for the Commission amounted to Aus \$8.5 million (roughly \$46.8 million) with less than half on employee related expenditure.

In 2004–2005<sup>22</sup>, the Commission continued its role as a vital part of the network of safety for the children and young people of NSW by processing over 79,000

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<sup>21</sup> The Commission for Children and Young People Bill 1998 and other child protection initiatives Briefing Paper 14/98

<sup>22</sup> NSW Commission for Children Annual Report 2004–2005

background checks for the Working With Children Check and 186 risk assessments. The Commission also developed a suite of online resource to help organizations become more child-safe and child-friendly as well as researching and monitoring issues that affect children and young people. The Commission presented submissions to the NSW Department of Education and Training, the NSW Parliamentary Committee on Social Issues Inquiry into Teacher Recruitment and Training, the Australian Government Productivity Commission's research report into Economic Implications of an Ageing Australia and the NSW Roads and Traffic Authority (RTA) discussion paper on improving road safety for young drivers.

### **2.7.7 New Zealand**

The rights of child and young persons in New Zealand are established by statute – the Children's Commissioner Act 2003, and previously the Children, Young Persons and Families Act 1989. The Act allows the commissioner to inquire into any matter affecting children and young people in any service or organisation and investigate the actions of the Department of Child, Youth and Family Services. The commissioner can investigate any decisions or recommendations made, or any act done or omitted, in respect of any child. However the commissioner cannot investigate any decision or recommendation, or any act or omission of a court or a tribunal.

In addition, the commissioner has a special responsibility to monitor the policies and practices of the Department of Child Youth and Family Services and other agencies that exercise a function, duty or power under the Children Young Persons and their Families Act.

Planned assessment at key life stages, including early childhood, primary and secondary school entry, and moving to tertiary education or employment and training opportunities, is a key component of the [New Zealand] framework.

The assessment will take into account the whole child; their physical, social, educational, emotional, and psychological development. Within these domains different factors will be more important depending on the age of the child.

In the early years there is would be a focus on attachment between infant and caregivers, and on physical growth and development. School engagement is important between age five and nine, and at entry to secondary school a review of general health, personal identity and social wellbeing are key issues. The final assessment would focus on preparedness for transition from compulsory education to further education, training or employment.

**(New Zealand Commissioner for Children)**

As an independent authority that promotes children's and young people's wellbeing through advocacy, consultation, monitoring, research and investigation, the New Zealand Children's Commission carries out training for communities and government agencies about rights, as well as communicating key rights information to a variety of audiences and responding to individual or systemic violations of children's rights. The advocacy team works with government and non-government organizations to promote child centred policies and practices across all sectors.

Interestingly, from the time the position of Children's Commissioner was first proposed there has been a discussion on whether the focus should be on "family" not "children".

As stated by the commissioner in a recent correspondence<sup>23</sup>, “in reality, of course, there is no incompatibility between an agency whose focus is children’s interests and a desire to strengthen the family. Children are dependent for their wellbeing on their family. The problem comes from people who are fearful that their way of caring for their children will be criticised by an agency that has an independent focus on children. The honest answer to that is that many things are done that are harmful to children that a Children's Commissioner can draw attention to and suggest ways in which they can be put right, usually working with the children's family I would strongly resist the idea that a Children's Commissioner function could be subsumed within a Families Commission. History is against such an idea. Children's interests do become submerged beneath those of adults when they are mixed.”

## **2.8 Summary of Overseas Findings**

Children tend to be significantly under-represented as a social group in spite of their recognised importance in the development of societies.

The UN underlines the importance of children’s rights and views in the UNCRC, which incorporates civil, cultural, economic, political and social rights in 54 articles and two optional protocols. The UNCRC protects children’s rights by setting standards in health care, education, and legal, civil and social services. Under the convention, children are considered to be those under the age of 18 years.

Participating nations commit themselves to the UNCRC by first signing and then ratifying the terms of the convention. Reporting on their achievements is key to demonstrating this commitment in areas of a national agenda for children, responsible bodies for co-ordination and monitoring, appropriate legislation, funding for child-related measures and adequate research.

Practical issues arise in the drafting and enactment of legislation (including law reform) and the setting up of national institutions to address children’s rights. Many countries have made positive moves in these areas but still fall short in comprehensive delivery, especially in complex areas such as juvenile justice and in the independence of national bodies (like commissions or ombudspersons) from ruling governments.

Different countries have adopted different models:

- Norway has an independent ombudsman within the Ministry of Children;
- Scotland’s Commissioner for Children promotes the advocacy of children’s rights but does not investigate individual cases leaving that to the Scottish Executive;
- The Children’s Commission of the province of British Columbia in Canada has an independent officer who reviews the effectiveness of government child-related measures and operates outside of the main government bodies;
- New South Wales state in Australia has an established children’s commission that carries out research and monitors government but itself does not possess powers to investigate individual complaints;
- New Zealand’s independent children’s commission investigates any decisions or recommendations made, or any act done or omitted, in respect of

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<sup>23</sup> Correspondence from the Commissioner for Children, New Zealand dated 3<sup>rd</sup> November 2006

any child but cannot investigate any decision or recommendation, or any act or omission of a court or a tribunal;

- China and India follow national programmes through co-ordinating agencies.

Each situation has fostered its own needs in structure, providing services, funding and in the relationship between the commission or institution with the ruling parties in government. In general, funding comes from government yet the governance structure of the commissions allows them to carry out independent investigations as needed.

Organisational structures tend to be based on small-focused teams which monitor larger executive agencies which implement the necessary child-related measures themselves.

In each case, advantages have been realised, namely:

- A focal point for children's issues and policies;
- An independent role to oversee or work with relevant authorities which has resulted in efficient allocation of resources;
- Better understanding of children's issues to administer appropriate and timely interventions as the child develops;
- Comprehensive research that has yielded valuable information on child development leading to the development of tools such as child impact assessments; and
- Better integration with other social groups such as families.

**Without a commission or ombudsman, it is highly unlikely that these countries would have enjoyed the same level of effectiveness in regard to tackling children's issues.**





### 3 Hong Kong in Context

#### 3.1 Overview

Hong Kong like many societies worldwide faces its own children’s rights challenges. Many are owing to the socio-political changes that have taken place over the past decade. Since 1997, Hong Kong’s profile has been bolstered by a migrant influx but conversely affected by a declining birthrate.

In 2005, Hong Kong’s population was about 6.94 million. Census and Statistics Department data below show the changes to our population profile since 1961:

Year	Population	The elderly (65+)	The elderly as a % of the population	Children (0-14)	Children as a % of the population
1961	3,168,100	100,100	3.20%	1,283,900	40.50%
1971	4,045,300	182,300	4.50%	1,452,100	35.90%
1981	5,183,400	344,300	6.60%	1,277,300	24.60%
1991	5,752,000	502,400	8.70%	1,198,700	20.80%
2001	6,724,900	753,600	11.20%	1,104,100	16.40%
2005	6,935,900	836,400	12.10%	1,005,400	14.50%

**Table 2. Hong Kong’s Changing Population Profile**

Children as group represents roughly 14 per cent of the population, and likely more were the official definition expanded to count children up to 18 years. This is a significantly large group.

But since 1971, a **declining birthrate** has kept the child population shrinking. In 1971, there were roughly 3.4 children for every woman of child-bearing age but this has fallen to 0.966, Census and Statistics Department figures show. Observers<sup>24</sup> speculate that this could be due to:

- The prohibitive cost of bearing and raising children;
- The stresses of Hong Kong’s work environment, which does not favour parenthood; and
- Low fertility, caused by work pressures and environmental factors.

This has implications for the future. Projections indicate that Hong Kong’s population will be 8.4 million by 2033, an average annual increase 0.7 per cent, compared with the 1-2 per cent of the 1980s and 1990s. Table 2 supports the expectation that the overall dependency ratio will rise, and with the number of children falling this implies a shrinking productive workforce. Added to this is a marked increase in the elderly dependency, which is also clear from Table 2. Compounding the marked cost of looking after this elderly group, is the ever-shrinking workforce needed to support them.

<sup>24</sup> South China Morning Post, “Better atmosphere seen as the key to HK baby boom” (14 August 2006)

In view of the concern that this issue raises, the Council for Sustainable Development has established a taskforce to look in to a population policy for Hong Kong<sup>25</sup>. The council is headed by the Chief Secretary for Administration.

### **3.2 Review of Child-Specific Issues**

We look at some child-specific issues in Hong Kong in relation to the UNCRC. These include:

- Views of the child (Article 12);
- Right to life (Article 6);
- Child abuse and neglect (Article 19);
- Living standards (Article 7);
- Education and leisure (Article 28); and
- Right of abode (Article 22).

#### **3.2.1 Views of the Child**

Children have virtually no voice in the Hong Kong's political processes, despite being a sizeable group within the population. The earlier example of school children helping to interview candidates to be their principal is an exception. Otherwise, children are rarely, if at all, consulted for their views as a specific group<sup>26</sup>.

**This is not to suggest, though, that children themselves cannot become organised to voice their opinions.** In 2003, a group of children under the UNCRC - Child Ambassadors' Scheme and three agencies (the Hong Kong Committee on Children's Rights, Against Child Abuse, and the Hong Kong Committee for UNICEF), with sponsorship from the Government's Home Affairs Bureau, conducted the first Children's Council Meeting in the territory. Children were allowed in to the Legislative Council chamber to discuss, debate and make recommendations on policies relating to children for the government's consideration. This has been a positive note for the recognition of children's views.

From the first Children's Council, a core group of children formed a Children's Council Working Committee as a project with the advice and assistance of NGO partners and sponsorship from the government. A second Children's Council meeting followed in May 2004, and a Children's Forum that December, with Children's Council meeting for the third time in November 2005. That year, the working committee submitted an independent report on the rights of children in Hong Kong to the UN Committee on the Rights of the Child<sup>27</sup>.



<sup>25</sup> Council for Sustainable Development, Invitation and Response Document for the second Engagement Process, "Enhancing Population Potential for a Sustainable Future" (2006)

<sup>26</sup> Article 12: of the UNCRC requires that "states parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child".

<sup>27</sup> Children's Council Working Committee, "Report to the UN Committee on the Rights of Children in Hong" (January 2005)

In 2006, as a result of increasing mass media coverage of the working committee, the committee renamed itself Kids' Dream, and was launched as a project to be the first child-led organisation in Hong Kong.

The stated mission of Kids' Dream is to "arouse public awareness on children's rights; ensure the full implementation of the UNCRC in Hong Kong"; "actualise the concept of children speaking for children"; and "accelerate the establishment of a child-friendly and permanent platform for children to express their views in all matters affecting them".

Despite the presence of such groups, there was criticism levelled at how children's views are received at various levels, particularly by policy makers and legislators. These were contained in the 2005 working committee report, and separately in a report by a coalition of 19 NGOs<sup>28</sup>. Examples include:

- In policies directly relating to children, such as education reforms, consultation tends to focus on teachers, school management and parents. Children, despite being the direct recipients are not consulted.
- In divorce cases, child custody and child-care arrangements decisions may not involve children's views, while many decisions are made pragmatically by considering the parents' financial conditions and when they may be available for taking care of the children. Social workers and the family mediators who work with separating and divorcing couples tend not to involve children in the mediation process.
- Hong Kong's legal system does not provide adequate channels for consultation of and participation by children. While a child is entitled to separate legal representation when such need is "observed", or when a request is made, in court proceedings, it is the judge who presents the child's views.
- When a mother remarries, the child's voice is not heard with regard to surname change. There is the risk, too, that the child may not be ready to build a relationship with a new stepfather who may be eager for adoption, damaging the relationship.

Further, a conference on the quality of Hong Kong's workforce further raised the issue of how Hong Kong's children were losing the independence to think and the ability to think independently as a result of conditioning they received at home, and at school, where "they are discouraged from speaking their minds by a deferential culture".<sup>29</sup> Such comments highlight the importance of allowing children to express their views; the down side would be to lose the competitive edge that has always distinguished Hong Kong's regional position.

### **3.2.2 Right to Life**

The fundamental right to life is universally acknowledged<sup>30</sup>. In Hong Kong this is reflected in a robust public health-care system that caters to children's needs.

<sup>28</sup> Hong Kong Committee on Children's Rights, "NGO report of the HK Special Administrative Region under the Convention on the Rights of the Child" (2005)

<sup>29</sup> South China Morning Post, "Children need preparation for a tough world" (27 May 2006)

<sup>30</sup> Article 6 of the UNCRC states that "states parties recognise that every child has the inherent right to life [and] shall ensure to the maximum extent possible the survival and development of the child: the right to life, survival and development".

Hong Kong has a low infant mortality rate (2.4 per 1,000 registered live births). The Government's Department of Health provides a comprehensive range of health promotion and disease prevention services for children from birth to five years delivered through over 30 maternal and child-health centres, where immunisation, health and developmental surveillance services are offered together with guidance on child care and parenting for parents and care-givers. Antenatal, postnatal, family planning and cervical-screening services are also provided for women as appropriate. About 38 per cent of expectant mothers and 91 per cent of newborns attended maternal and child-health centres in 2005, which partly accounts for the low infant mortality rate<sup>31</sup>.

Hong Kong's child-related health care, according to many local paediatricians, rates as one of the finest in the world. However, there is clearly still room for improvement.

During the period in 2003 when Hong Kong was affected by Severe Acute Respiratory Syndrome (SARS), policy changes rarely took account of the needs of children. An example relates to visiting: unlike Singapore and Toronto, which were also affected by SARS, visiting for parents was severely restricted. But education and recreation for the children in prolonged isolation received little attention.

Constraints to child-related health care have been reported<sup>32</sup> as follows:

- The Charter for Children in Hospital is supported in principle by all paediatric units in public and many private hospitals. But it has not been adopted formally by the Hospital Authority, due to concern about resources<sup>33</sup>.
- During subsequent planning to provide better infection control facilities, the needs of children are after-thoughts despite some emerging infections having a high mortality in children, such as avian influenza.
- The mothers of about one-fifth of Hong Kong-born children do not have resident status, and government policy discriminates against them on housing, social security and health care, with consequences for family unity. These children may or may not be taken care of locally to benefit from primary and preventive health-care programmes. Problems are often discovered late to the detriment of the long-term outcome of the children, whether it is growth, development or behaviour-related.
- Resources allocated for paediatric care are still measured in in-patient bed-days occupied, while ambulatory and psycho-social care of children are rarely recognised, in spite of the growing problem of new morbidities such as psychosomatic disorders, substance and alcohol abuse, deliberate self-harm, eating disorders, obesity, child abuse and neglect, and school violence.
- Hospital admissions fail to address the need of space for parents accompanying their children, space for education and recreation, or space so children of similar age groups can be cared for together.

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<sup>31</sup> Hong Kong Year Book 2005

<sup>32</sup> Hong Kong Committee on Children's Rights, "NGO report of the HK Special Administrative Region under the Convention on the Rights of the Child" (2005)

<sup>33</sup> Hong Kong Committee on Children's Rights, "Survey on Charter for Children in Hospital" (2002)

- Hospital play, rated highly by many paediatric patients, is not formally recognised as part of paediatric service<sup>34</sup>.
- Students consult student health services voluntarily. Children coming from problematic families are least likely to use the service.
- Many studies document deleterious effects of air pollution on children. Despite their high potential for exposure and illness from environmental hazards, children have no special protection. About half of the children in Hong Kong are exposed to passive smoking at home. Children's physiology and development make them more vulnerable to the adverse effects of pollution.

### **3.2.3 Child Abuse and Neglect**

Two examples below illustrate and underline child abuse and neglect concerns in Hong Kong.

In June 2006, a tutor at a private North Point tutorial centre was fined \$2000 by the magistrates' court after being found guilty of assault occasioning actual bodily harm on a nine-year-old pupil. The tutor had beaten the child with a ruler at least 200 times leaving bruises to the child's arms and face. Representatives from Against Child Abuse, UNICEF and the Committee on Home School Co-operation criticised the leniency of the punishment meted out, where the maximum penalty is \$50,000 and a year in prison a statement they issued in response essentially asked, "Why are we tolerating acts that would be seen as assault if the victim were an adult?"<sup>35</sup>

Hong Kong legislates against child abuse<sup>36</sup>; taking corporal punishment, this has been banned from school since 1991.

However, a more fundamental problem exists. Children have also been left vulnerable as a consequence of larger societal pressures on parents and other traditional caregivers, such as work and the breakdown of the family unit – so often the model that best serves the community.

In July 2006, two brothers, aged two and three, were alone at home when a fire broke out in their flat. Their parents had gone out for a late-night meal. Police and firefighters saved the boys and the couple was arrested on suspicion of child neglect<sup>37</sup>.

A survey by the New Century Forum in 2005 showed that out of 900 teenagers with behavioural problems, more than 64 per cent had working mothers<sup>38</sup>. The Hong Kong Council for Social Services reported in the same year that there were roughly 76,900 single-parent families, leaving one child in every 13 children living in such a household.

As a response, the government and NGOs provide a network of family- and child-welfare services that includes:

<sup>34</sup> Hong Kong Committee on Children's Rights and Playright Children's Play Association, "Survey on practical needs of hospital child patients" (2002)

<sup>35</sup> South China Morning Post, "Children's rights activists criticise \$2,000 assault fine" (24 June 2006)

<sup>36</sup> Article 19 of the UNCRC states, "states parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

<sup>37</sup> South China Morning Post, "Parents are arrested after leaving boys at home alone" (14 July 2006)

<sup>38</sup> South China Morning Post, "Children of working mums at risk" (29 May 2005)

- Residential child-care services for children and young people who need care or protection from family crises or their own behavioural or emotional problems;
- One-stop services for day nurseries for children aged from two to six or from birth to six and a Kindergarten and Child Care Fee Remission Scheme to cover children attending child-care centres for low-income families;
- A Duty Lawyer Service to run the Legal Representation Scheme since October 2003 for children and juveniles involved in care or protection proceedings who are deprived of liberty and detained in a gazetted place of refuge under the Protection of Children and Juveniles Ordinance;
- Integrated children and youth services centres for outreach social work services, school social work services, and family life education; and
- A Community Support Services Scheme to assist young people who have broken the law or are at risk.

However, according to a forum on social services<sup>39</sup>, with the emergence of new family problems and the reluctance of some families to seek assistance, social preparation work is getting more complex. Furthermore, changes in the societal environment have given rise to family problems: for example, with cross-boundary marriages, or where Hong Kong residents work in the Mainland, or Hong Kong children are living in the Mainland. Family violence is happening more frequently, and the special needs of ethnic minorities need to be addressed.

Yet, children continue to die in ways that are unnatural and preventable, and by suicide; they continue to suffer from serious injury from suicide attempts, family violence, and home accidents. Children are often victims in family disputes and family violence cases. Before committing suicide, emotionally disturbed parents been known to kill their children, fearing they will be left uncared for.

In child suicide, 2004 saw 17 school children kill themselves because of academic pressures or unbearable emotional problems, either by jumping from buildings, burning charcoals or taking drugs. A 2003 Chinese University research survey of almost 3,500 secondary school students showed a high tendency of local young children to bear suicidal thoughts – almost 11 per cent<sup>40</sup>.



A more recent study in 2005 by the Centre for Suicide Research and Prevention at the University of Hong Kong showed even higher figures – from 28 to 42 per cent of secondary school students had thought about suicide, one in five adolescents had experienced moderate to strong depressive symptoms and 2.8 per cent had attempted suicide in the previous two months<sup>41</sup>. This alarming data prompted a series of seminars to be set up involving teachers and students to help the children on how to deal with stress and anger.

<sup>39</sup> Consultation Forum to the Social Welfare Sector (23 June 2006)

<sup>40</sup> South China Morning Post, "Four per cent of teenagers repeatedly attempt suicide" (13 April 2004)

<sup>41</sup> South China Morning Post, "Teachers to help tackle pupil suicides" (21 September 2006)

On average 30 to 40 children are killed in home accidents every year. These accidents commonly result in injuries – falling off a sofa or the upper bed-bunk, slipping on a wet surface, and being trapped by doors, windows, folding chairs, or tables. Children are also hurt in accidents involving sharp objects or gas units; there are many other instances. It is not uncommon for unattended children or babies to die after falling out of windows when their parents or caretakers go to work or shopping.

**Family violence** cases are also on the increase. In 2001, 66 per cent of the 66 homicide cases (including child homicides) were caused by family disputes. From the statistics of the Central Information System on Battered Spouse, there have been growing numbers of newly reported battered spouse cases – 3,598 cases in 2005.

Family and child welfare professionals observed that children from families with a problem of spouse battering are likely to be victims of child abuse. From the findings of a 2002 study<sup>42</sup>, 67 per cent of over 100 battered wives interviewed revealed that their husband had abused their children. Among them, 83 per cent were physically abused, 65 per cent were mentally or psychologically abused, and 4 per cent were sexually abused. The Child Protection Registry of Hong Kong shows there were 481 newly reported child-abuse cases in 2003. In 2005, the records showed 763 cases.

It should be noted that even if the child is not the target of abuse in a family, he or she may suffer from psychological abuse through frequently witnessing the violent behaviour of his or her parents. When an abusive parent is rehabilitated after conviction, it was noted that mandatory counselling together with parenting skills-training should be used to rebuild family relationships.

There is to date **no comprehensive data bank** in Hong Kong specifically with child-related data on child abuse, child labour, on children receiving security payments and crimes committed by children that reflects the situation of children. Taking child abuse as an example, data and statistics kept by the Social Welfare Department in the Child Protection Registry do not tally with those kept by the police; they also reflect that certain cases are missed. Cases are often not researched or analysed, and this has resulted in the lack of data and “best practices” in handling such situations.

### **3.2.4 Standard of Living**

Hong Kong is reported to have the biggest **gap between rich and poor** among the world’s wealthiest economies. Children in poverty in Hong Kong are a major concern, with 11 per cent of the child population receiving Comprehensive Social Security Assistance. Many are living in crowded, unhygienic and polluted dwellings. Some are engaged in scavenging rubbish and discarded items to supplement their family income.

Yet according to the UNCRC, maintaining a quality of life is an absolute for children.<sup>43</sup>

“Summer holiday? What summer holiday?” That was the reply of Ah Fung, a 12-year-old girl,

<sup>42</sup> Christian Family Service and The University of Hong Kong, “Study of Children Who Witnessed Family Violence” (2002)

<sup>43</sup> Article 27 of the UNCRC states that “states parties recognise the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development [and] in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

when asked how she had spent her two-month school break. It may not sound like a typical answer of a Form One schoolgirl. But this girl has been spending her summer holiday collecting old newspapers, cardboard and aluminium cans for re-sale to help her family make ends meet. "I do it with my brother. And we have so far made [HK]\$200. We save the money to buy stationery for the new school year," said the girl, who works for four to six hours on weekends.<sup>44</sup>

Facing the economic downturn in the recent years, Hong Kong's social security benefits have been slashed twice since 1999 by the government, putting deprived children further in hardship. On average, a four-person household has suffered a 40 per cent cut in total security payments in the two reviews and the adjusted standard rates amount to \$5,090. The monthly payment to cover the living expenses of a child is \$1,273.

According to a survey carried out in late 2003<sup>45</sup>, nearly 24 per cent of the child population below 14 years was living in low-income families, whose monthly household income was only half the overall median household income in Hong Kong, that is \$9,300 for a three- to four-person household.

Although children are eligible for public housing, another 2003 survey<sup>46</sup> showed around 30,000 children live in small partitioned bed-space apartments. Their average living space per person was 22 square feet and the smallest among them was 10 square feet. Children living in such dwellings share facilities such as toilets and kitchens with other tenants. These places frequently suffered from poor hygiene and low safety standards.

**The adverse effects of poverty on the children's physical and psychological developments are damaging.** A survey by the Boys' and Girls' Association of Hong Kong carried out in 2006 showed that of children of low income families (based on monthly incomes of less than \$10,000), nearly 20 per cent had food poisoning or stomach or intestinal diseases, 57 per cent have missed school because of illness and 14 per cent had suicidal thoughts, compared with average children who had much lower percentage scores for the same factors<sup>47</sup>.

Other research has shown that children in poverty have **low self-esteem**. They rarely participate in extra-curricular activities and often share their parents' financial worries.

One measure to address this issue in Hong Kong is the proposed setting up of a child development fund to offer a long-term investment in children<sup>48</sup>. The scheme, based on models applied in the UK and the USA, comprises an initial contribution from government which is set aside for investment purposes and topped up by contributions from parents, families and friends over time. The child does not get access to the funds until he or she is 18 years old. In this way, a child can expect some level of support to capitalise on opportunities for education to break out of the poverty cycle.

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<sup>44</sup> South China Morning Post, "No summer break for 'child scavengers'" (21 August 2006)

<sup>45</sup> Hong Kong Council of Social Service, "Livelihood and Expectations of Children" (2003)

<sup>46</sup> Society for Community Organisation "Survey on Children's Living Conditions in Old Urban Areas" (2003)

<sup>47</sup> South China Morning Post, "Group seeks improvement in support for poor children" (17 October 2005)

<sup>48</sup> Task Force on Children and Youth, Commission on Poverty, "Promoting Child Development - Child Development Fund as a Model" (May 2006)

### 3.2.5 Education and Leisure Rights

Providing quality care and education for children in their early years leads to positive outcomes later in their lives<sup>49</sup>. The definition of the child in the UNCRC includes young children (birth to six years), primary school-aged children (seven to 12 years), youth (13 to 15 years), and young people (16 to 18 years).

Since October 2000, Hong Kong has been implementing education reforms at every level, ranging from early childhood to tertiary and continuing education. There are six major areas under review – curriculum and assessment, language education, professional development, student admission systems, school improvement and expansion of education opportunities. The results have been a diversification of the school curriculum and the education system to better cater for the different needs and aptitudes of students, a broadening of students' learning experience, and an enhancement of the professionalism of principals and teachers<sup>50</sup>.

Hong Kong's education system is renowned for its emphasis on rote learning, which starts in preschool. Although there are nine years of free education with, apparently, a low drop-out rate, many youths do not proceed with further education. Developing each child's potential is problematic, because of the large student-to-teacher ratio and the traditional teaching methods adopted.

Ah Chan is the first student in Hong Kong to be admitted to a local university straight from finishing Form Five. How did [he] – a fifth-former from a not-so-famous secondary school in Tuen Mun – secure his university place? He certainly studied hard for his exams. However, he attributed his achievement more to his parents' tolerance in letting him disassemble telephones, electrical appliances and toys from a young age. He studied the pieces out of curiosity, and so learned to be an inventor – winning second place at the Intel International Science and Engineering Fair.

Many parents who are busy scheduling tutors for their children do not believe that learning can be achieved through play. The idea that creative learning can be nurtured by disassembling toys is unthinkable.<sup>51</sup>

At present, the Hong Kong government provides vocational training for those who cannot proceed to higher forms after Secondary 3 (15 years). The kind of vocational training offered does not emphasise personal and talent development, and arguably does little to enhance young people's employment opportunities. At present the unemployment rate for the 16 to 18 years age group is about 21 per cent.

In addition, the emphasis on academic achievement has taken away children's time to play. For example, the allocation system for secondary school places means that primary school children have to be constantly drilled to pass attainment tests in order to help secondary schools stream students for classes according to ability. According to some principals, this has led to children becoming mentally stressed out<sup>52</sup>.

Play facilities in schools and public areas are limited and, felt by many, to be non-creative. Children in poverty furthermore have restricted opportunities for extra-curricular activities because of the expenses involved.

<sup>49</sup> Article 28 of the UNCRC states, "states parties recognise the right of the child to education, with a view to achieving this right progressively and on the basis of equal opportunity".

<sup>50</sup> Hong Kong Yearbook 2005

<sup>51</sup> South China Morning Post, "Put the fun back into education" (9 October 2006)

<sup>52</sup> South China Morning Post, "Test raises fear of 'stressed out' pupils" (19 July 2006)

According to a government report, expenditure on education was \$33 billion, comprising 2.5 per cent of Hong Kong's GDP and was one of the highest items of expenditure in the 2005 Budget. This reflects a trend of increasing expenditure on education. However, unlike other comparable Asian cities, there is no legislation that commits the Government to designate a minimum amount of its expenditure to education.

Many of the various policies in the education reform have not always worked together. Taking the policy on medium of instruction for instance<sup>53</sup>, until 1997, secondary schools in Hong Kong were free to choose the language used for classroom instruction. Many opted to use English as the medium of instruction (EMI). In response to complaints about declining Chinese and English standards among students in Hong Kong, the Education Department at the time conducted a review of language policy in Hong Kong. Following the Guidance on Medium of Instruction issued by the Education Department in early 1997, which firmly advised secondary school teachers to use Chinese as the medium of instruction (CMI), the majority of secondary schools switched from using English to Chinese from September 1998. Only 114 schools are now permitted to teach in English.

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

This over-emphasis on academic achievement has also been recorded in the Inspection Report of the Quality Assurance Branch of the Education and Manpower Bureau, based on their visits to 30 kindergartens. The report noted that about one third of the kindergartens put too much emphasis on rote memory, dictation, tests and examinations, and that young children are required to start writing and copying at too early an age.

A recent survey by the Church of United Brethren found that over 67 per cent of parents ranked revision as the activity that they most wanted their children to do. A further 70 per cent ranked academic-related activities first amongst a list of activities that included sport, chores, playing and taking care of siblings<sup>54</sup>.

The government's Leisure and Cultural Services Department organises a variety of recreation and play activities for children and youth. However, the range and frequency of these extra-curricular offerings is limited. A study to investigate the daily activity level of young children in Hong Kong had a group wear a pedometer for a period, and its results indicated the average number of steps taken by kindergarten children was a little over 10,000 each day in the week. Children were more active during the weekend with approximately 14,500 steps per day<sup>55</sup>. The World Health Organisation recommends that preschool children have an activity level corresponding to a daily average of 13,000 to 16,000 steps, something Hong Kong's children achieve only over the weekend. In terms of their activity level, young children in Hong Kong fell at the 60<sup>th</sup> percentile.

<sup>53</sup> Hong Kong Committee on Children's Rights, "NGO report of the HK Special Administrative Region under the Convention on the Rights of the Child" (2005)

<sup>54</sup> South China Morning Post, "Parents prefer study over chat" (9 October 2006)

<sup>55</sup> Hong Kong Baptist University, "Use of Pedometry to Evaluate Physical Activity Levels among Preschool Children in Hong Kong" (2003)

The levels of physical activity of Primary 2 and Secondary 5 students have also been reported as unsatisfactory. Much of their leisure time is spent watching television and playing at the computer. A 2003 study on children's play behaviour during school recess, showed that play facilities in schools are inadequate, even though school children indicated they would like to take part in sport activities and group play during recess<sup>56</sup>. The research further showed that parents and teachers supported the value of play in child development, with the teachers also showing a stronger faith in the positive impact of play on academic performance.

Another study showed that the majority of young people (70 per cent of those aged between 15 and 24) did not take part in any cultural activities, such as going to the theatre<sup>57</sup>.

Other major concerns focus on play environments, their developmental value to children, and playground safety. Most public playgrounds are in public parks, shopping malls, and some housing estates. The variety of play equipment in existing playgrounds tends to be limited and cannot meet the needs of children who are looking for variety, accessibility, choice, adventure and play aspirations. Common play items are multi-play structure, rockers, slides and swings. Items such as rotating apparatus, sand play and ball play are usually absent. An over-focus on safety by playground management often results in playgrounds that have low developmental value for children.



### **3.2.6 Right of Abode**

Under Article 24(2)(3) of the Basic Law, persons of Chinese nationality born outside Hong Kong of Hong Kong permanent residents can be permanent residents of the HKSAR and enjoy the right of abode. The Immigration Ordinance stipulates that in order for a person to qualify for the right of abode under Article 24(2)(3) of the Basic Law, at least one of his or her natural parents must be a Chinese citizen who had the right of abode at the time of birth of that person.

The right of abode for children is a fundamental right that should entitle the individual to the same rights as others.<sup>58</sup>

Immigration from the Mainland through the inflow of One-way Permit holders is a major component in the changes to Hong Kong's demographic structure and is expected to contribute to approximately 80 per cent of the population growth in the future.

Under existing policy, spouses, unmarried dependent children under the age of 18 and dependent parents aged 60 or above of Hong Kong permanent residents may

<sup>56</sup> Playright Children's Play Association and the Centre for Child Development of the Hong Kong Baptist University, "A Study of Recess and Play in Primary School" (2003)

<sup>57</sup> Hong Kong Federation of Youth, "Youth Trends in Hong Kong" (2002)

<sup>58</sup> Article 22 of the UNCRC states, "states parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present convention and in other international human rights or humanitarian instruments to which the said states are parties."

apply to enter Hong Kong as dependants. Capital investment entrants, people admitted into Hong Kong to take up employment and those admitted to take up study in full-time undergraduate or post-graduate programmes in local degree-awarding institutions may also sponsor their spouses and unmarried dependent children under the age of 18 to apply to enter Hong Kong as dependants.

Year	Number	Year	Number
1991	26 782	1998	56 039
1992	28 366	1999	54 625
1993	32 909	2000	57 530
1994	38 218	2001	53 655
1995	45 986	2002	45 234
1996	61 179	2003	53 507
1997	50 287	2004	38 072
		2005	55 106

**Table 3. Statistics on Arrival of One-way Permit Holders in 1991-2005**

In 2005, just over 26 per cent of new immigrants were children aged between 0-14 years.

Some of the issues facing immigrant children include:

- Discrimination against immigrant children is still prevalent. Barriers to education are one set of means; only 66 per cent (1,020) of mainland children were admitted into local schools in the four school years from 1997 to 2001.
- Although the Basic Law gives the right to a child of a Hong Kong resident to reside in Hong Kong, there is a long waiting period for family reunification as other family members (including the parents of the child) are processed.
- Often immigrant children come from impoverished families with limited support from the government. This restricts the opportunities they have in later development.
- Integration into society is made difficult by the difference in social status.

### 3.2.7 Other Issues

A 2005 report<sup>59</sup>, the Hong Kong Committee on Children’s Rights raised a number of other child-related issues. These included provisions for special needs children, disabled children, child pornography, juvenile drug abuse and criminal behaviour amongst children.

It is not possible to discuss these issues in this paper, but this is not to suggest they are any less important. The reader is referred to the 2005 report for a detailed description of these issues.

<sup>59</sup> Hong Kong Committee on Children’s Rights, “NGO report of the HK Special Administrative Region under the Convention on the Rights of the Child” (2005)

### 3.3 Summary of Hong Kong Findings

Hong Kong, like many modern cities, is enjoying rapid development and growth. However, such development is creating social pressures on its community, and not least our children.

Perhaps Hong Kong is fortunate in possessing a project-based children's council to articulate children's wishes, but, judging by the evidence of gaps in at least six of the fundamental rights of children, it would seem there are shortcomings at both a legislative and an institutional level.

These include:

- A lack of co-ordinated substantive research data on children's needs in Hong Kong;
- Possibly the wrong data being measured;
- A high-pressure society forcing children's developmental needs to be geared towards high achievement at the expense of balance;
- Wealth gaps in society that are sidelining poor children from realising their potential;
- A rigorous teaching regime that places an overemphasis on intensive academic and rote learning instead of creative play.

Overriding this is the fact that children's rights and needs are not being addressed as a whole but in a piecemeal fashion driven by the dictates and constraints faced by individual departments. Overseas evidence has shown that this is not the best way to proceed. The need for a coherent policy on children is discussed in the next section.



A further note is the absence of a national institution for children, like a children's commission, in Hong Kong. Critics may point out that such an institution is not needed, as Hong Kong is already well-served by a number of dedicated government departments and NGOs. The Hong Kong Government, for its part, has said, "having carefully examined these proposals [for a children's commission], we [the Government] considered that they

were not necessary either to give effect to the convention [UNCRC] or as a practical response to its requirements<sup>60</sup>".

This decision has posed many queries on how the child-related measures for Hong Kong's children are to be monitored; this report has highlighted the problems in child protection, health care, education and poverty. This further poses the question as to whether such a decision is really in the interests of government in terms of **spending of resources and maximising the benefits to society**, let alone to the children and related stakeholders.

We look at how to shape the future for our children in the next chapter.

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<sup>60</sup> HKSAR Government, "Report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child" (2003)

## 4 Shaping the Future

### 4.1 Background

Hong Kong's future is dependent on how the current generation develops. **Pivotal to this is the role of our children.** The previous chapter described typical challenges facing children in Hong Kong. It is imperative to address these issues now in order to nurture a society that will become healthy and prosperous.

As part of the research conducted for this report, interviews were carried out with representatives of various stakeholder groups. These included legislators, health-care professionals, social workers, education specialists, business people, and children. Government, also invited to comment, in the main declined to do so.

The following are the highlights of the discussions that took place.

### 4.2 A Policy for Hong Kong's Children

As a signatory to the UNCRC, Hong Kong has an obligation to defend the rights of children with particular regard to access to health-care services, schooling, protection and play. From a policy perspective, much of this is subsumed under respective policy areas in government:

- Education is the responsibility of the Education and Manpower Bureau;
- Health care is under the Department of Health, the Hospital Authority and the Health, Welfare and Food Bureau;
- Social welfare issues such as poverty and child welfare are looked after by the Social Welfare Department and the Health, Welfare and Food Bureau; and
- Legal matters are addressed by the Department of Justice under the Security Bureau and enforced by the Hong Kong Police.

The **Home Affairs Bureau** has had since 1993 the co-ordinating function to enable the Government to make a coherent assessment of the way in which human rights are implemented. The bureau oversees the overall reporting of Hong Kong's ratification of the UNCRC every five years. Hong Kong's first report under the convention was submitted to the UN Committee on the Rights of the Child as part of China's second report in June 2003<sup>61</sup>.

In 2005, the Children's Council Working Committee recommended that in formulating policy proposals there should be an accompanying assessment of their impact on children as they affected the rights of the child. The Hong Kong Government "took the view that no new arrangements were necessary for this purpose. This was because the convention covered various areas of government that were the responsibility of several different policy branches (now bureaux). Those branches were assisted by boards and committees and non-governmental organisations ("NGOs") in planning and decision-making. Where a particular area overlapped the responsibilities of more than one branch, there were arrangements for co-ordination between branches".

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<sup>61</sup> HKSAR Government, "Report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child" (2003)

On the matter of a single policy and monitoring system for children, the government responded that “specific laws dealt with different aspects of the convention. The impact of legislation and the execution of policies was monitored by the Legislative Council, the Ombudsman and the press as well as by being reviewed by the policy branches concerned. These arrangements allowed for flexibility and a swift response to changing circumstances and to the concerns of the public, and we saw no advantage in replacing them with some unified administrative system, a single children’s ordinance, or a single monitoring system.”

Yet stakeholders’ views differ from this.

Children are the future of our society. The more effort we put towards caring for and nurturing them, the more human and social capital we can build up to make our society ... energetic and prosperous.

However, our society still lacks a comprehensive policy on children’s development and education needs. With sustainability to consider and our society facing an aging population, it is time to rethink our overall strategies on maintaining a quality child-care environment. Government policy can provide a clear direction for the all-round development of children, and facilitate comprehensive collaboration among different government departments, since most of the issues are cross-departmental concerns.

**A stakeholder from the social services sector**

One stakeholder believes strongly in a good policy, in particular when there is effective co-ordination among various departments and people from different disciplines work together for the betterment of children. Further comments indicate **there is no clear, co-ordinated policy** to ensure children’s rights are enforced, nor is there a central policy framework to conduct research in these areas. Sufficient funding is essential to making this happen and the government needs to provide enough funding for respective parties to carry out related research.



A stakeholder from the social services sector called for a **comprehensive approach and holistic consideration of children’s needs** by employing child-impact assessments. These are not carried out when government departments make policy, and the resulting child services have tended to be fragmented and reactive. Developing a child-friendly policy with a perspective to children’s rights, and changing fragmented, adult-centric

policies and services, would better meet the needs of children and protect them. It was further suggested that government should provide resources to establish a databank required for the development of relevant policies and services.

Some stakeholders pointed out that government worked on issues selectively; many child-related policies address normal and middle-class children, but not much attention is given to those in need. Such initiatives furthermore took long to implement, and often did not achieve much because they tended to be hampered by bureaucracy and were poorly promoted among the public.

A **comprehensive strategy policy** was suggested to recognise the evolving family and society conditions as well as the support needed, such as pre-school services and flexible early childhood service. At present, the approach to setting children’s

policies seemed to stakeholders to be remedial without long-term vision, rather than holistic. A social welfare stakeholder expressed concern about the process of assessing eligibility for childcare, its focus on parents' income, and the excessive screening involved; this may create "an unsuitable background for children's development."

As one stakeholder stated, "Government policy can have a very important impact on these areas. It is not only the existence of policy but its implementation which is important."

### **4.3 The Pressing Issues**

Several pressing issues concerning children's rights in Hong Kong were raised. Chief amongst these were child poverty, education, health care, protection, legal rights, environmental health, lifestyle and civic participation.

Stakeholders were also concerned by inconsistencies in the definition of children in various legislation relating to children (citizens under 18), reflecting the government's lack of understanding of the UNCRC and a general **inability to identify children's needs** in policies and practices affecting children, such as how family poverty and violence affect children's well-being and development.

A legislator felt the public was little aware of children's rights (that is, the understanding of the UNCRC contents and how to ensure government policies adhere to it) and of related promotional activities, such as the children's ambassador schemes. On this matter, another stakeholder made the point that the **rights approach** was "amorphous" and hard issues like protection had to be more clearly stated in terms of child battery and guardianship. Child abuse, said one stakeholder, reflected "a deficiency in education and legislation, and we need to treat the root cause, i.e. parents' unresolved problems not the symptoms".

Child stakeholders were unequivocal in their views on how to promote children's rights: "Increase media promotion, say before or after [a] news report; provide more resources in promotion and development, e.g. road show[s], school campaigns. Educate not only the children but also the adults, [and] invite experts to give talks to the children and parents in schools."

A legislative councillor was concerned about the **rights of children of poor families**, who for whom support was inadequate. In bad times, poor children suffered because priorities tend to be given to adults. Increasing "social investment" would be one means of addressing poverty. A further point was the importance of children's participation in community affairs in enhancing their sense of citizenship.

Another pressing issue involved the rights of **ethnic minorities and underprivileged children**. Stakeholders said education and support for the minorities was deficient, and underprivileged children - which included the mentally ill and physical handicapped - lacked proper school facilities. Language barriers and physical differences precluded minority children from mingling with local and Mainland immigrant children. Nor did schools in which minority children dominated provide an environment for them to adapt to local culture. Better training for teachers could help these two groups, child stakeholders suggested, as could promoting the importance of non-discrimination and harmony, and providing new immigrants with more support, with emphasis on patience, understanding and acceptance.

Some stakeholders felt that **educating the public and promoting children's rights** were important. There ought to be an emphasis on preventing child abuse, many cases of which came about because of negligence. This would work positively with the promotion of both "upward social mobility" for children from underprivileged families and the rights of "non-local" children living under difficult circumstances. These included children born to illegal immigrant and refugee families. Investigation in to crises and problems was inadequate because frontline staff received poor training.

From the **early years of education**, there was an over-emphasis on academic achievement, a "lopsided emphasis on achievement", education sector stakeholders pointed out. This was a pressing issue. Parental pressure to give their children the best possible start to their education may instead stress them unduly. There were problems with the competitive education system and it was hoped the new 3+3+4 secondary education system would deal with some of these.

Parents are trying too hard to get children into the right school; even getting children into kindergarten is pressurised. Up to Form 6, children face enormous stress as responsibilities are excessive and they are queuing up for places – this should be an entitlement not a competition. Fortunately, reform policies [are] on the right track, but we must also look at the quality of teachers and how to allow teachers to work in a calm and measured way. The relationship between children and adults is important. Teenagers, for instance, expect dignity and respect, such as not having to wear schools uniforms past a certain age.

**Private school educator**

Child stakeholders offered the advice of consulting school children when introducing or implementing policies so that educators could think from all children's perspectives, including the underprivileged. It was not advisable to introduce too many reforms in short periods, as children would find it hard to adapt.



Health care for children, said a medical stakeholder, had improved markedly over the past five years through government initiatives such as the family health service and pre-development screening. However, the government was not educating parents in child health. Nor had children access to facilities to stimulate their mental health, to vitality. The stakeholder added, "government does not know how to use money and does not seek help

from professionals; policy should come first then financing followed by implementation and monitoring."

#### 4.4 Children's Commission

[We should] set up an independent Children's Commission for comprehensive, forward-looking policy-making; allocate sufficient manpower and resources for implementation and monitoring of services according to the comprehensive child policy, and the children's rights advocates in our community such as the Hong Kong Committee on Children's Rights and the child councillors would continue to be the pressure groups to participate in policy-making and to comment on implementation of policies, the child-related policies would be reviewed regularly with timely comments followed by appropriate follow-up actions. Some legislators in our society would also join hands with the pressure groups to look at how child-related policies and services are developed and implemented. With the enactment of the above stated, it is likely that effects with positive outcomes would result.

##### Stakeholder from the legal sector

Stakeholders interviewed for this research were unanimous in their belief that there is a **need to set up a children's commission**. They recognised that policy direction could not be decided by one or a few persons. It should involve from a group of stakeholders who are genuinely concerned with the well-being of children, and children's representatives. A commission for children was an option, they said, while acknowledging possibly some overlap on certain issues such as the law and abuse with existing commissions like that for youth. But as one stakeholder put it, "To help Hong Kong meet the needs of our youth and respond to their aspirations, the Commission on Youth was set up in February 1990. However, we still do not have any platforms to serve the same purpose for the children."

Stakeholders said Hong Kong needed a children's commission for several important functions: to better co-ordinate and oversee **implementation of the UNCRC**; address the lack of a "comprehensive approach and holistic consideration of children's needs", and ensure government departments carried out child-impact assessments in policy-making, to avoid fragmented and reactive services. A stakeholder who headed a children's organisation said a children's commission could "reflect the views of children to the policymakers in government."

In the opinion of a stakeholder from the social services sector, the existing policies and services in relation to children in Hong Kong were "adult-centric" and "the ordinances on child welfare, child protection, legislation dealing with offences committed by children were fragmented". A children's commission would help develop a holistic, comprehensive and child-friendly approach in policy-making, bringing a consistency to all child-related policies and ordinances. "A child commissioner [or the chairman of a child commission] and his/her colleagues in the commission would systematically collect and analyse views and suggestions for policy-making and monitoring of policy implementation. In sum, the existing policies should move from just a child welfare perspective to a children's rights perspective," the stakeholder said.

Stakeholders gave other reasons supporting a children's commission, including: "**Children have unique, special needs which should not be looked at from [an] adults' point of view**"; the commission would promote a "rights-based approach to policy-making", where "existing policies, legislation, system are fragmented, remedial, and services are reactive". Also, "children's voices can be channelled and respected through [an] officially established mechanism"; through the commission "more preventive work can be done by adopting preventive and developmental approaches in child welfare, child development and child protection"; and

“multidisciplinary professionals will join hands to work on promotion of child welfare and children’s rights.” The body would be “ensuring service accountability and quality of service through the monitoring system to be established”; and make sure there was “no overlapping of services provided by different organisations/governmental departments.”

A stakeholder from the medical profession supported the idea of a children’s commission, as “child health covers multiple facets [and there was a] need to minimise costs and duplication of effort”. Another stakeholder, a child-development specialist, said the commission should be a “**one-stop**” **shop** to meet children’s needs and rights, as “too many areas, like education [and] welfare, are inter-related; [we] need a policy body to co-ordinate and look after children’s interests”.

Others argued that Hong Kong needed a children’s commission to ensure children’s development now and in the future was healthy; there are commissions for each of women, the elderly, youth, and equal opportunities – but not children. Without a children’s commission “a dysfunctional society” would develop from “ignoring children’s voices”.

In a correspondence with the Office of the Ombudsman, it was pointed out that “the role of the Ombudsman is to redress grievances and address issues arising from maladministration in the public sector”; such an office however does not possess in-depth knowledge of children’s needs and rights and cannot therefore specifically address the needs outlined above.

#### 4.4.1 Functions of the Commission

What role [the commission] takes depends on the “positioning” of the commission – whether it wants to play a strategic-partner or monitoring role. Whether it should adopt a co-ordination or authoritative role needs to be studied and investigated. The former may only be a toothless body with little influence, while the latter may overlap with the current work of other government departments. [We] need to come up with a model that facilitates effective and efficient deployment of resources and smooth work process. One important aspect is that the function of a commission should not be just to provide a platform for meetings.

**Child stakeholder**

Stakeholders provided a range of views on the functions of a children’s commission. These included **monitoring the upholding of children’s rights in Hong Kong** and, a legislator said, making recommendations to improve government policies. It might also comprehensively study children’s rights, seeking other countries’ experiences, and collate all opinions to advise the Government. One stakeholder pressed the view that the commission should monitor the policy and practice related to both public and private services providing to children, receive and investigate complaints related to malpractice involving children and educate children and adults about the UNCRC and other practices that work in the best interest of the child.



Other suggestions covered the “development of a comprehensive child policy and child-related policies to meet the needs of children for their optimal development”; “meeting the needs of the child as a whole”; making “fragmented social policies ... consistent”; and “providing a vision of child welfare and child development for forward looking policy-making”.

One stakeholder from the medical profession suggested that the commission should take responsibility for setting standards for the physical environment in health care and schooling, such as the size of wards and classes, so such decisions need not be left to doctors and teachers. It could also provide a platform for cross-sector communication.

Most stakeholders stated **the commission should be independent of the government**, and it would, a social services stakeholder said, “monitor both the public and the private sectors [to see] whether they have adhered to the best interests and well-being of children”. One stakeholder from the legal profession commented that it was important the commission be independent of the government so it could come up with **more open-minded solutions** to problems. They stressed it was important for the commission to communicate regularly with the Government, or it would find it difficult to operate effectively. Government too would undoubtedly benefit from these consultations.

A legislative councillor said, “I have a mixed view. Ideally, it should be independent of the government in order to have autonomy to advocate for the rights of the child. However, if this is initiated by government, it may be more powerful in implementing policies. But it may have its own hidden agenda and may not focus on problems that really address children’s needs. We need to look into [the] experiences of other countries. On the whole, I support an independent commission.”

A summary of further roles expressed by stakeholders is provided below:

- Providing a channel to collect children’s opinions;
- Promoting children’s rights;
- Advocacy for improving the quality of life of children and their rights;
- Improving the co-ordination of policies and services for children;
- Collecting and disseminating statistics and programme information;
- Informing citizens and organisations of children’s issues;
- Evaluating the delivery of services to children in state custody and their families;
- Monitoring the issues related to mental health, all-round development, juvenile justice and delinquency prevention;
- Conducting research into issues that affect the safety and well-being of children and young people;
- Promoting laws, policies and practices that uphold the rights, interests and well-being of children and young people, particularly those at risk;
- Auditing social and public matters;

- Liaising with different sectors and government advisory bodies to ensure children have a proper environment in which to grow;
- Identifying the problems faced by children at each stage of their development;
- Acting as a central liaison point for local and overseas child-related organisations;
- Acting as a consultant to government for all child-related issues, including a review of existing laws;
- Conducting research and surveys on child-related issues;
- Representing children in circumstances where they may be at odds with schools or parents;
- Offering a place to go for children with desperate needs; and
- Listening to children.

#### **4.4.2 Composition**

The question of who should be on a children's commission evoked a number of suggestions from stakeholders. As one stakeholder put it, "if [the commission] is funded by government, then it would need government representatives." But this was qualified by another, who said government might have a representative but that person should not be the chair if it is to be independent, or this would send the wrong message to the public.



Representatives from government departments with work relating to children, would be joined on the commission by the following, stakeholders suggested: human rights groups, NGOs dealing with children's issues, children, parents, professionals from various sectors, such as law, social welfare, education, health care, and business: among them would be social workers, child advocates, teachers, doctors and representatives from the Hospital Authority. One stakeholder stressed that the commission had to have "**high-level participation**", otherwise it would not be able to influence government and it "should have government's involvement but not [be] under them".

As an education stakeholder put it, "the commission will only be as good as the people on it".

Regarding a chairperson, two stakeholders believed this person be a senior figure, such as the Chief Secretary. Others provided the following profiles:

- An expert in child policy and related issues.
- An independent person without the influence of any government department or other agencies.
- A person committed to effective relationships with key stakeholders, who can contribute to good policy and practice.
- A person experienced in child-related issues, with good co-ordination and lobbying skills, and who is able to evaluate major policies or programme reforms.

- A champion who does not represent any organisation but possesses good relationships with different stakeholders.
- A liberal person with political skills, who is articulate and can stand up for and has a genuine passion for children's matters.
- A person knowledgeable in the UNCRC and experienced in working with children, co-ordinating with government departments, NGOs, education sectors, and those who work with and for children.
- An independent person who is experienced and well-respected in the community.
- A person who has "made a name for himself or herself in public" and has a network of important and high-level contacts.

Some stakeholders insisted the chairperson must not be a government official. Others were less equivocal: if led by a government official, the commission it would be a "partner" to support the government's initiatives, and if led by an NGO representative, then it would play a role of monitoring the government.

#### 4.4.3 Integration with Other Commissions

The question of combining a children's commission with existing or proposed commissions was raised. Stakeholders in general did not support this notion.

On the Youth Commission, stakeholders were quick to point out the differences in needs at different ages of the child. Youth needs differed quite markedly from other aspects of childhood.

"Youth [are] an independent group, they have their individual needs, but [are] not children. The feasibility depends on their responsibilities – would it be too wide a scope?"

**Medical professional**

"[The children's commission] should be independent, and should not be combined with [the] Youth Commission."

**Social worker**

"We cannot mix the youth with children because their needs are different."

**Legislator**

On a proposed family commission, stakeholders were also equivocal in their views that children needed to be treated as a separate group.

"If a family commission's responsibility is to oversee other related commissions, there will be aspects missed and may not be properly articulated or dealt with. There is a danger of falling between the gaps – children's aspects may well get subsumed."

**Legal specialist**

"The current ways of dealing with problems are necessarily family related. Children have their particular perspective that is different from other groups. They need our support because they have no one to speak for them."

**Same legal specialist**

"A family commission [will not] solve the problem. Children are minorities, their needs are often neglected. We should start from children, [and] then go up to family."

**Paediatrician**

“A family commission cannot operate independently from other commissions... children need experts to look after their needs and interests, as they are a very specific group. Under no circumstance should [a] family commission replace other specific commissions, though it may have overall responsibility of [overseeing] these commissions.”

**Head of a social group**

On becoming a branch of the Equal Opportunities Commission, one stakeholder provided a comment that neatly outlined Hong Kong's position.

In designing our mechanisms, Hong Kong should learn from the experience of the Human Rights and Equal Opportunity Commission of Australia. It has a number of commissioners under its president, including a Human Rights Commissioner. The portfolio items of [the] Human Rights Commissioner include the rights of the child. But you may notice that the logic of the structure of the Australian model is that the state may, after taking into consideration the situations and needs and value of the country, create any office of commissioner to take charge of areas it considers necessary.

Taking into account the experience of the Australian model, it is reasonable and desirable to propose a children rights sub-commission focusing on the rights of the child in the Human Rights Commission. Alternatively, if for whatever reasons the government does not agree or does not prefer to set up a Human Rights Commission for the time being, it should set up a children's commission in line with similar national human rights institutions' principles and good practice as a start.

**Human rights activist**



## **4.5 Summary of Stakeholder Findings**

In the interviews and feedback from stakeholders, a series of key points emerged:

- Stakeholders interviewed for this research were unanimous in believing there was a need to set up an independent children's commission to better co-ordinate and oversee implementation of the UNCRC and to provide a "comprehensive approach and holistic consideration of children's needs". In addition, a children's commission could minimise costs and duplication of effort on the part of government's and others'.
- As existing policies appear to be fragmented and adult-centric, one of the first tasks of the commission would be to develop a central policy direction on children and their needs and rights. . A central policy will need to be comprehensive and holistic, and take into account evolving family and society conditions.
- Pressing issues identified were child poverty, education, health care, protection, legal rights, environmental health, lifestyle and civic participation. In addition, discussions centred on how to identify children's needs in policies and practices affecting children, the rights approach for children of medium-income and poor families, rights of ethnic minorities and underprivileged children, the importance of early education and thinking from children's perspectives when designing policies. One measure to address this issue in Hong Kong is the proposed setting up of a child development fund to offer a long-term investment in children<sup>62</sup>. The scheme is based on models applied in the UK and the USA.
- A range of views on the functions of a children's commission were provided. These included monitoring the upholding of children's rights in Hong Kong, making recommendations to improve government policies, conducting research into issues affecting children's well-being, liaising with different sectors and government advisory bodies, reviewing laws and representing children in circumstances where they may be at odds with schools or parents.
- The commission might comprise representatives from government departments with work relating to children, human rights groups, NGOs dealing with children's issues, children, parents, professionals from various sectors, such as law, social welfare, education, healthcare, and business: among them would be social workers, child advocates, teachers, doctors and representatives from the Hospital Authority. These would have to be "high-level" participants. The commission should be headed by a senior figure such as the Chief Secretary or alternatively an independent public person with expertise in child-related matters as well as a strong network and good co-ordination and lobbying skills.
- Stakeholders in general did not support the notion of combining a children's commission with existing or proposed commissions.

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<sup>62</sup> Commission on Poverty, "Promoting Child Development - Child Development Fund as a Model" (11<sup>th</sup> May 2006)

## 5 Conclusions

From the research conducted for this report, we can draw a number of conclusions. These are presented below. We focus on Hong Kong's needs but we also draw from overseas approaches as appropriate.

In chapter 2, we can see that the **vulnerability of children** is self evident from the findings, particularly in section 2.2. Physically and politically, children are in a powerless position and rely on the decisions and resulting actions of adults. It is incumbent on adults therefore to recognise the implications of this situation for societal planning and future well-being. Sadly, they do not always: children exist in conditions of poverty, disease, and poor schooling – much of which can be avoided.

On the one hand, while protection either through family means or by government provision is widely accepted, the rights of children to make their own decisions and to be involved in planning decisions concerning their well-being is largely overlooked. In this resides a view of adults that children may possibly lack the maturity or the wisdom to be able to make sound judgements. This notion is **questionable**. Clearly very early in their lives children are entitled to a safe and nurturing environment – as a right – but, as they advance, their views are surely fundamental to the planning of education and child-health programmes. On this premise is based the UNCRC embraced by many countries.

Early and later development of children is critical for a healthy and sustainable society. Incorporating the views of children as stakeholders in this process is important. However, this is not to suggest that children are in this alone. Rather, it implies the need for a partnership between children, their parents, their teachers, their health and social workers, and many other stakeholders in order to reach the right solutions. Government too is a fundamental party in this compact.

We see in chapter 3 that Hong Kong has managed to achieve a number of child-related goals. Our infant mortality rates are amongst the lowest in the world, children have free education and we have social safety nets that are alert to the needs of deprived children. To some extent this is relatively straightforward. We have an executive-led government that is efficient and responsive to community needs, and we also have a compact population supported by an infrastructure that is the envy of many modern cities.

But we also face challenges specific to our changing situation. As can be seen in section 3.1, **Hong Kong's population profile has changed** – we have fewer children and more elderly than ever before. Furthermore, we can deduce from section 3.2 that the gap in wealth has widened between those who have and those who do not, imperiling the welfare of children of poor families. Work stress is also reaching a critical point in communities, as evidenced by broken families and higher levels of child abuse and juvenile delinquency: it is obvious Hong Kong must respond. Its children are pivotal to the future of our society.

The primary course of action is, first, to acknowledge the extent of children's needs and to recognise them as problems if appropriate. Good data research on children distributed amongst several government departments needs to be collated and analysed to highlight the key issues. Policy then needs to be formulated to provide direction on how Hong Kong should address issues related to children and their rights. It must be **comprehensive and holistic**, or risk many issues being left unattended while government departments focus on only their individual concerns. Once policy is in place, it is logical that legislation will follow.

As shown in sections 2.6 and 2.7, countries have tried – some successfully and others less so – to capture this approach through law reform and national institutions. There are those that have recognised the importance of a twin approach incorporating a sound legal framework that embodies children's rights and with watchdog that independently monitors the performance of a national government charged with delivering appropriate services to children.

But more crucially this independent body – **a commission or an ombudsperson** – has the authority to push children's rights, ranging from basic entitlements to their views on how services need to be fashioned for their own needs. Mature societies in Europe and North America have shown that such bodies can work, perhaps not perfectly but at least to give a sense of balance to proceedings. On the other hand, understandably many governments, including Hong Kong's, would be cautious about such a move: there already are commissions representing many sectors of society, so what value would a children's commission bring?

In Hong Kong's case, much like the already well-established Independent Commission Against Corruption, the proof of its value has been in results: these matter, and the ICAC brought a dramatic reduction to corruption in Hong Kong because of its independence and integrity. A children's commission should be no less **empowered** and should reduce the government's worries that children are not adequately looked after in a modern city like Hong Kong. Like the ICAC and other commissions, a children's commission will co-operate with existing infrastructure like government departments but at the same time advise on and challenge, as necessary, existing and proposed child-related measures from the perspective of the young. In this regard, the Children's Rights Unit and the Children's Rights Forum housed in the Home Affairs Bureau will be critical components of this co-operation.

But, importantly, a children's commission must have teeth, based on legislative statutes, as does the Equal Opportunities Commission – a commission of note. A children's commission must have vested in it **authority and power**, or it will be ineffective – and face public derision for it. The acid test for this children's commission will be in tackling issues where positive impacts, and relief on the public purse, are measurable, specifically in areas like and surrounding child poverty and education. It would address child abuse, misbehaviour and similar issues through longer-term soft-skills practices, such as parenting education and instilling the acceptance of work-life balance as a pre-requisite for family harmony.

A further argument for a children's commission lies in its role in overseeing a child policy that would address the different areas of child-related issues in Hong Kong. As mentioned earlier, the value of this policy would be in the more **efficient allocation of government funds** in education, healthcare and social services so that early investment say in education may result in significant savings in social welfare

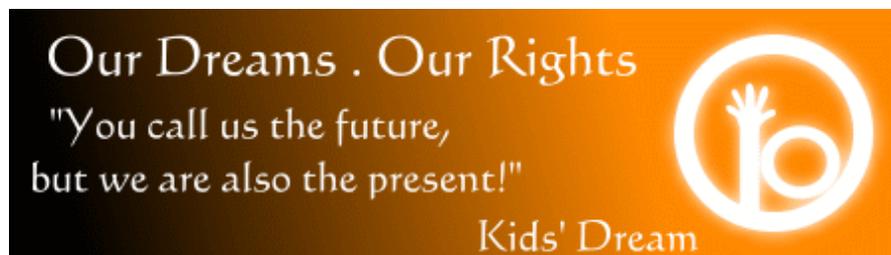
and healthcare expenditures later on if the child has received the right level of mental and physical development respectively.

Mixing a children's commission with other commissions like family and youth will not be the most effective solution as **children's needs do require careful consideration**. While there is a risk of marginalising children through a dedicated commission, the benefits far outweigh this. This is not to suggest that there is no less a role for a family commission, say, but only to reiterate that children have specific needs that cannot be tackled as a grafted-on function of a commission with enough issues of its own to contend with.

The next steps will be telling. The stakeholders' views in chapter 4 show clearly how much the commission can do, who should participate, or head it. These are key questions that must be answered in the near, not distant, future. **The time for a children's commission is right now – before our children grow into a society that does not benefit Hong Kong.**

The last word is left to Kids' Dream:

When asked, "How would you suggest getting the government to set up such a commission?" the children answered: "Set it up gradually, don't rush hastily; build up and improve the relationship with government and obtain their trust first; get endorsement from LegCo and chiefs of bureaux; obtain support from the media so as to raise public awareness and leverage on existing government initiatives – it would be difficult to get government to build something from scratch."



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- Hong Kong Bar Association
- Hong Kong College of Paediatricians
- Hong Kong Committee for UNICEF
- Hong Kong Council of Early Childhood Education and Services
- Hong Kong Council of Social Service
- Hong Kong Human Rights Monitor
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- Office of The Ombudsman, Hong Kong
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Pictures sourced from: UNICEF and the HK Committee on Children's Rights.