

ACA News:

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Hong Kong must tighten its laws to protect children from abuse in any situation

Grenville Cross says the needless death of a five-year-old boy with a drug-dependent carer brings home the gap in the law punishing negligence



Children attend the first day of the Hong Kong Flower Show this year at Victoria Park. Hong Kong needs a holistic law to cover all situations in which the child is at risk. Photo: Edward Wong

Child suffering is always tragic, but the death of Yeung Chi-wai horrified even hardened observers. In March, a coroner concluded that Chi-wai, a five-year-old boy suffering from Down's syndrome and with a mental age of 18 months, had died in 2013 from misadventure while in the care of his drug-dependent mother and her boyfriend, both of whom regularly used crystal methamphetamine, or "ice". Chi-wai was found to have a very high level of ice in his system, and probably poisoned himself by swallowing a piece of ice crystal found lying around his home.

'Hong Kong government urged to amend guide on handling child abuse in coroner's case involving death of boy who probably ingested Ice'

Describing Chi-wai's death as "unfortunate", the coroner called on the social welfare department, which had been alerted to the boy's situation two months before his death after teachers noticed wounds on his body, to review its internal guidelines on care plans for abused children.

Although police investigated the death, Chi-wai's carers were not prosecuted. No drugs or paraphernalia were located at their home during a search.

According to the Hong Kong Committee on Children's Rights, Chi-wai's fate is far from isolated. Over the past three years, "at least" 11 children were abused, neglected, poisoned, dropped from a height, injured or even killed as a result of parental substance abuse. The criminal justice system, therefore, must seek to provide greater protection to the most vulnerable, meaning the holistic development of the law to cover all situations in which the child is at risk, as is happening elsewhere.

In Britain, for example, it has, since 2004, been an offence – punishable with 14 years' imprisonment – if someone causes the death of a child or should have known that the child was at significant risk of serious harm and failed to take reasonable steps to prevent it. Similar legislation is now in place in South Australia and New Zealand.

'Hong Kong must be more vigilant to child abuse say campaigners, after cruelty case left girl, 7, in hospital for weeks'

Hong Kong needs similarly wide laws. If a carer fails to protect a child, this must be prosecutable. It can be no defence that the carer could not be bothered to check the child was alright.

Since 2006, the Law Reform Commission has been examining whether Hong Kong should have a specific offence of causing or allowing the death of a child. After such a long gestation period, the commission will, hopefully, in the very near future, come down decisively in favour of extending the full protections of the criminal law to the vulnerable child. If, moreover, the exposure of a child, born or unborn, to drugs and other noxious substances is also criminalised, tragedies such as that which befell Chi-wai might well become less likely.

Grenville Cross SC, a criminal justice analyst, is honorary consultant to the Child Protection Institute

Reference:

<http://www.scmp.com/comment/insight-opinion/article/1953922/hong-kong-must-tighten-its-laws-protect-children-abuse-any>