



The United Nations adopted the Convention on the Rights of the Child (the Convention). Photo: Online picture

By Grenville Cross

In 1989, the United Nations adopted the Convention on the Rights of the Child (the Convention). Its purpose is to safeguard the basic human rights of children, including the right to life, the right to development of physical and mental potential, the right to protection from influences that harm their development, and the right to participation in family, cultural and social life. The Convention was applied to Hong Kong in 1994, and has continued to apply since the reunification in 1997.

Article 19 of the Convention requires governments to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and 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), and any other person who has the care of the child”.

Quite obviously, if child abuse is to be combated, it has to be reported, so the authorities can deal with it. This is why the UN Committee on the Rights of the Child, which supervises the implementation of the Convention, has called upon governments to establish mechanisms for reporting abuse against children. In 2013, the Committee recommended mandatory reporting, so that all types of child abuse can be countered.

Although it is a blight on Hong Kong, child abuse is a significant problem. In the first nine months of 2019, for example, there were 789 cases reported to the Social Welfare Department. **In the decade from 2008 to 2018, moreover, reported child abuse cases rose by approximately 20%, from 882 to 1,064.** This, however, is only the tip of the iceberg, and many cases are never reported at all. What this means, therefore, is that many children have to suffer in silence, not knowing how to get help, and this can have horrific consequences, not just on their immediate welfare but also on their long-term development.

In 2015, for example, a 7-year-old girl, Suki Ling Yuk-lam, was admitted to hospital in a dreadful condition, following sustained abuse by her own family. She was malnourished, covered in abrasions, sores and ulcers, and brain damaged. Although her teacher and others had noticed her condition, nobody reported it, and the abuse continued for far longer than it needed to have done.

In 2019, the Ombudsman, having reviewed the situation, recommended that the Government should examine the feasibility of mandatory reporting of child abuse cases. This was most welcome, as Hong Kong has fallen behind other places. In 2018, for example, the International Society for the Prevention of Child Abuse and Neglect revealed that, out of the 86 countries it had surveyed, 71 had enacted mandatory reporting laws, including Australia, Canada, Japan, Switzerland and the United States, and Hong Kong should now follow suit. The types of abuse and neglect which are reportable cover five main areas, namely, physical abuse, sexual abuse, emotional abuse, neglect and exposure to family violence.

Quite clearly, the more comprehensive the mandatory reporting scheme, the greater its impact will be. Although some places confine mandatory reporting to professionals who deal with children, such as doctors, care workers and teachers, others cast the net more widely. In Ontario, Canada, for example, the public, including professionals who work with children, must, if they have reasonable grounds for suspecting that a child is being abused or neglected, and is in need of protection, report the matter. **This means, therefore, that, in those circumstances, relatives, family friends and neighbors, as well as professionals, are all under a duty to report child abuse, and they cannot simply turn a blind eye to what is going on, which is what happens all too often in Hong Kong.**

When the Government finally gets serious about mandatory reporting, which will hopefully be very soon, the problem of people being reluctant to report the abuse will also require resolution. A new law, therefore, will have to provide for confidentiality wherever reports are made on the basis of reasonable suspicion. The reporter, moreover, must be exempted from liability in any civil, criminal or administrative proceedings, provided the report was made in good faith.

If mandatory reporting is to work, it will need to be buttressed by realistic offence provisions. In New South Wales, for example, the maximum sentence for non-reporting is either 2 or 5 years' imprisonment, depending on the gravity of the predicate child abuse which has been concealed. Since, moreover, false reports must be discouraged, the penalty for making one can be aligned to that prescribed for making a false report to a police officer under the Police Force Ordinance (Section 64), namely, 6 months' imprisonment and a fine.

Hong Kong clearly needs to strengthen its child protection system, and mandatory reporting will help greatly. If child abuse can be identified at an early stage, the chances of helping the victim before serious damage is done will be much increased. If the Chief Executive announces this proposal in her forthcoming Policy Address, it will not only help Hong Kong to discharge its international obligations, but will also strike a decisive blow for the most vulnerable in our society.

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參考資料 Reference: <https://m.orangenews.hk/details?recommendId=136348>