

## Plan International Hong Kong Position Statement on Children's Commission in Hong Kong

January 4, 2018

Plan International Hong Kong (“we”), is an independent development and humanitarian organisation that advances children’s rights and equality for girls. We recognise the power and potential of every single child and we support children’s rights from birth until they reach adulthood.

As part of Plan International which operates in more than 70 countries, we uphold our commitments to 1) treat children with respect and dignity, always acting in their best interests; 2) strive for gender equality; 3) put children’s protection first. These commitments to child’s rights and gender equality are underpinned by the United Nations Convention on the Rights of the Child (UNCRC) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which have been extended to Hong Kong since 1994 and 1996 respectively, particularly the guiding principles of UNCRC including non-discrimination (Article 2), best interest of the child (Article 3), right to life, survival and development (Article 6) and respect for the views of the child (Article 12).

Plan International fully committed to *end violence against children* and promote a safe and harmonious society to children and young people, especially to gender equality. According to World Health Organisation<sup>1</sup>, boys are often the victims of physical punishment than girls; whereas girls are at higher risk of infanticide, sexual abuse, forced prostitution, and educational and nutritional neglect. Girl children are often more vulnerable to sexual violence, particularly in adolescence. Gender-based violence can be verbal, physical, psychological or sexual, but whatever the form, the effect of it is harmful and a violation of a girl’s basic rights.

With 80 years’ accumulation of knowledge, practices and processes on protecting children, we have developed and enforced a gender-sensitive child safeguarding policy in place to ensure our high quality child protection performance. This is also why we strongly advocate the same approach to be adopted within and across organisations who also work with children, *i.e.*, a **holistic system strengthening approach** to ensure both preventive and responsive measures are in place so that no child is subject to any form of harm as a result of their association with the organisations or communities at large.

We highly appreciate and encourage the Government’s plan to set up a Commission on Children and the invitation to collect suggestions on the establishment of the Commission. A strengthened system approach is strongly recommended in order to recognise the inter-connectedness of children's rights, gender equality and the complex causes and consequences of violence and ensure no child is left behind.

We have laid down our views, comments and suggestions as follows after a thorough consideration of local situation, experiences from our affiliated member organisations across the globe and most importantly, the best interest of children in Hong Kong.

a) *the expected role, functions of the Commission*

An **independent and mandated** Children's Commission is essential to respect, protect and promote the rights, well-being and development of our children, our future. In the discharge of this primary role, *the Commission is expected to have power to*

- Monitor fulfillment of the obligations accepted under the United Nations Convention on the Rights of the Child, foster the overall well-being of children, and take up its oversight role. Should the Commissioner be an independent organisation, s/he could uphold children's interests above the competing agendas of organisations, departments, political parties and government.
- Act as an independent champion, watchdog and spokesperson for all children in Hong Kong.
- Initiate and improve child-related policies and initiatives across different bureau/departments. It shall have the power to lead and oversee the implementation of Children's Strategy.
- Proactively investigate complaints and petitions submitted on behalf of or directly by children, and propose and provide remedies to breaches of children's rights.

The *key functions* should include the following:

- Unify the *definition of children* under different laws and legislations and related minimum ages in accordance to UNCRC, i.e. under the age of 18;
- Provide definition of children's best interests, at least a set of minimum requirements and strengthen the existing definition of child abuse.
- Ensure the development of a long-term *Children's Strategy*, a five to ten years' plan of action, which outlines how public sector, social sector and private sector work together to ensure children's development and realisation of their full potentials. The Children's Strategy should have clearly defined goals and objectives, which coincide with UNCRC.
- Ensure there is a *gender perspective mainstreaming* in its strategic planning and policy development process.
- Ensure an *effective gender-sensitive monitoring and evaluation system* is being executed, while aiming to evaluate the extent to which the goals set in the Children's Strategy are achieved and whether actions are efficient. With this tracking and evaluation framework, credible evidence is gathered and analysed according to clear attainments and measurements.
- Ensure *gender-sensitive Child Impact Assessment mechanism* is in place and conducive to the enforcement of any proposed law, policy or decision does not violate the Best Interest of Child and/or lead to devastating impacts to children.
- Promote the establishment of *effective complaints/feedback mechanisms*, e.g. child friendly reporting, referral and responses. Investigate individual cases that have wider significance where children's rights are violated;
- Ensure full respect for *children's participation* in all matter affecting them directly and indirectly;

- Ensure good data tracking, holistic systems and policies for children are in place so that no child is left behind or missed from policy development and service planning, especially the most vulnerable and the most hidden ones – children of parents on drugs, in prisons, having mental health or complex medical problems, children in juvenile system, in care.....etc who are not able to act on or protect their best interest.

***b) the composition and structure of the Commission, e.g. the types and foci of working groups to be set up under the Commission***

In order to perform the above functions, the Commission should be directly accountable to Chief Executive, or Chief Secretary for Administration and team of dedicated commissioners should be appointed. The commission secretariat members shall consist of expertise from different sectors, including social services, medical sector, education, legal sector, private sector, and most importantly, children’s facilitators should be involved so as to enable the mainstreaming of Children’s perspectives into the policy system.

Besides working groups focusing on different issues, such as poverty, special education needs, and children with disability...etc. that need to be established under the structure of the Commission, ***two cross-cutting aspects*** that we would like to highlight in consideration of their important roles in the Commission are **1) child participation; 2) monitoring and evaluation (M&E).**

With our rich experience learned across the globe, we will have the expertise to contribute to form the TWO working groups suggested as follows,

- ***A child engagement team***
  - a. To set effective and child friendly channels systematically at different levels, including schools, public bodies, and institutions such as church, children’s home, detention center, and in court and judiciary process etc., to consult children’s views in policy-making, and administrative proceeding.
  - b. To develop interactive communications strategies and consultation programs to ensure children under different circumstances are appropriately involved and consulted, in particularly for those most disadvantaged ones.
  - c. To lead promotion and implementation of child participation, ultimately to come up with a localised standard and manual as a guidance to carry out child participation in all systems.
  - d. To ensure the most vulnerable girls are being included: girls with disability, girls in care, girls with HIV, girls from ethnic minority groups and girls out of school etc.
- ***A M&E team***
  - a. To develop child impact assessment tools with gender analysis to track to what extent that the children’s best interests is maintained in laws, policies and practices.
  - b. To build up mechanisms so that evaluations are rigorously conducted according to clearly defined attainments and measurements.

- c. To develop gender and age sensitive indicators, both quantitative and qualitative, such as girls' own perceptions of feeling safe and respect, relationships and behavior regarding gender equality. All these indicators should be measured through baseline and regular evaluation so to track the territory child-development.

We strongly believe that our approaches in child protection, child participation and gender-sensitive M&E across Plan International would be of great reference because these are the best practices shared among 70 countries that we work, varying in cultures, religions, economic status and etc. Moreover, we are particularly committed to promoting gender equality and gender transformative frameworks, which consequently, are integrated into different streams of our work, including thematic programme areas.

c) *the priority areas or issues to be addressed by the Commission on Children in the first two years*

As a strong advocate for data-driven and evidence-based, we urge the Commission to prioritise preventive measures in order to lay a solid foundation for long-term development in the first two years,

- 1) Coordinate child-related research and set up a **central Child Data Bank/Management Information System** to improve quality, scope and use of statistical information about children to identify any overlooked issues;
- 2) Develop a rigorous gender-sensitive **M&E mechanism** to review the loopholes of existing laws, policies and practices as well as child protection mechanisms; such as
  - i. The inconsistencies of the definition of children under different laws and legislations, *i.e.* under the age of 18 as of UNCRC;
  - ii. The ambiguity of existing definition of child abuse;
  - iii. The lack of a clear definition of children's best interests;
  - iv. The lack of gender lens in problem analysis, in particular, the children-related issues
- 3) **Formulate Children's Strategy** with clear goals and objectives, a five to ten years' plan of action, which outlines how public sector, social sector and private sector work together to safeguard children's development and advancement;
- 4) **Lead capacity building** of civil servants and also frontline professionals who work with children, such as teachers, social workers, pediatricians, etc., aiming to enhance rights-based approach and child protection.

The priorities proposed above aim to tackle the problems arisen from the facts that,

- 1) Currently, child data is scattered across different systems and child protection registry lacks sufficient accessibility and analysis;
- 2) The principles of UNCRC are not fully reflected in existing law and policy making process and implementation are not properly tracked and assessed;
- 3) Child policies, welfare and services are scattered, lacking in a vision and long-term planning;

- 4) Lack of an all-around child right and gender equality awareness and training among child-related professionals, especially on child rights and protection;
- 5) Limited right-based, gender-sensitive information and knowledge equipping children and young people about risky behaviors, self-protection and reporting mechanisms

### *Case Study*

#### The number of child abuse and child neglect cases in Hong Kong was under reported

In April 2017, the Hong Kong University released a report on child injuries in all 18 districts of Hong Kong. The study investigated 0 to 19-year-old children who had received Accident and Emergency Department services of the Hospital Authority in the past 12 years. The study found that those who were deliberately hurt (including self-hurting, abuse, indecent assault, Ordinary beatings) accounted for 6%, of the total distribution (i.e. 44,553 cases) of child injuries in Hong Kong (2001-2012). Every year, nearly 3,663 patients using A&E services due to child-abuse have been reported in Hong Kong, accounting for about 0.5% of the total. Among them, children aged 5-9 are at risk of being maltreated and being at risk.

However, according to the Social Welfare Department (SWD)'s Child Protection Registry (CPR), there were only 10,745 reported cases in total between 2005 and 2016, i.e. fewer than 900 cases per year on average. The most recent case number for half year of 2017 was 477.

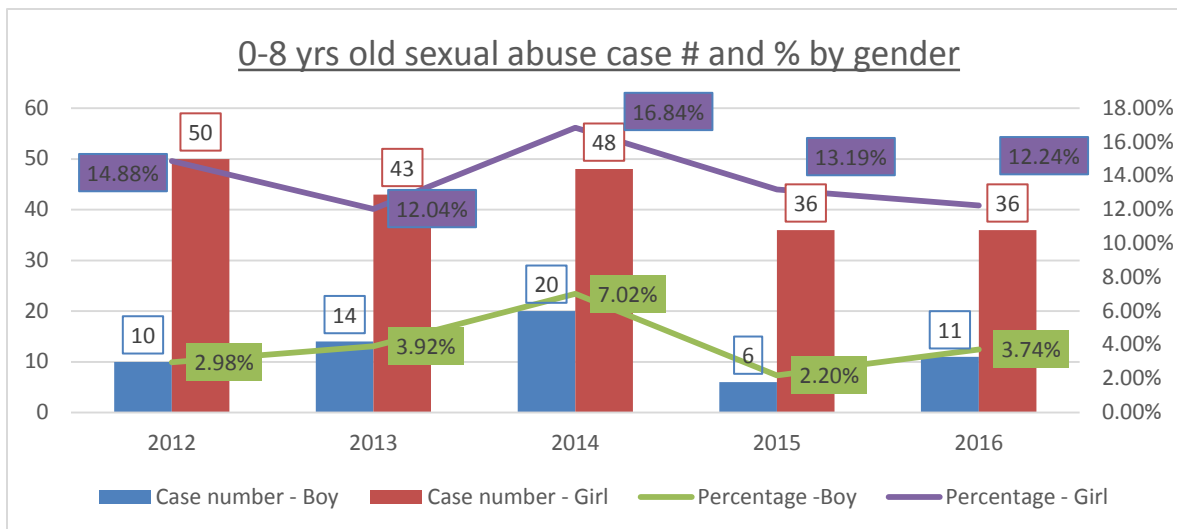
Chan et. al. (2011)<sup>ii</sup> in their research stated that 13.1% of children aged 12-17 in Hong Kong had experienced child abuse and neglect. They estimated that the number of cases in the population could amount to 120,000 per year. In Hong Kong, there is no mandatory reporting law for child abuse and it is possible that the CPR figure is an underestimation of the situation, which could be alarming.

This is why a legally mandated Children Commission which has the power of investigation is important to reveal these under-reported cases so as to reflect the actual situation faced by children. The information will help establish relevant measures to tackle the child abuse/child neglect issues.

#### Girls at early age or at adolescence are more vulnerable to sexual violence than boys of same age

According to the CPR from SWD, from 2012 to 2016, on average, there is around 14% of the reported sexual abuse cases involve girls from 0-8 years old in every year, whereas around 4% of all reported sexual abuse case involve boys of the same age. The graph below illustrates the recent 5 years' data on 0-8 years-old child sexual abuse cases extracted from CPR.

In addition, girls of 12-14 years old are most vulnerable to sexual abuse among children under 18 years old, on average, there is as almost 37 % of all reported sexual abuse cases involve girls from 12 to 14 years old whereas boys are around 5% in every year.



Alarming concerns over sexual violence at early age, in schools and by children under 18

It is highly suspicious that the data in CPR is under-reporting of sexual violence situation among young children. According to the recent statistics from The End Child Sexual Abuse Foundation, its hotline received 231 calls throughout the year (July 2016 – July 2017). Among them, 29% was suspected of sexual violence, in which over 50% victims were children aged 4 to 9 years old. However, the 0-8 years old sexual abuse cases take up far less than 20% of the total number of child sexual abuse cases reported from 2012-2016 from CPR data.

The foundation further reported that over 80% offenders were known to the child victims; among those 40% are friends, peers and senior form students in schools. 53% of offenders were aged under 18, and 55% of those were between seven and nine years old. Among the 76% of suspected abuse cases which involved physical contact, more than 60% involved touching victims' private parts.

Sadly to say the recent sexual abuse incidents are all prominent examples of failure to promote children's right for protection in Hong Kong. This is why an independent Children Commission is essential, which has the power to ensure every report will be taken seriously and its actions can be pursued with real authority. The Commissioner, mainstreaming gender analysis in all these reports and upholding the best interests of children, can ensure that a holistic system strengthening approach to warrant both preventive and responsive measures are in place so that no child is subject to any form of harm.

This is also why Plan International Hong Kong puts local programme priority in enhancing holistic gender-sensitive child protection mechanism at early stage and particularly put girls' rights as our priority focus.

*d) any suggested independent research studies or reviews to be commissioned by the Commission to facilitate its work*

Upholding our focus on a holistic approach for children’s optimal development, we strongly suggest the following researches and reviews to be commissioned:

- A systematic review on the burden of child abuse and neglect in Hong Kong financially, as *Child Fund Alliance*<sup>iii</sup> estimated that the cost of child abuse and neglect could amount to 2%-8% of a region’s GDP in one of its report in 2014.
- A consolidation of research findings in Hong Kong on the impact of adverse childhood experience into a child’s adulthood in order to identify overlooked root causes and issues. For example, the adverse effects of early institutional experiences on resident children’s development, for instance, delays in physical, emotional and cognitive development;
- An evaluation of existing child protection mechanism, its related protective and remedial services and also the protection sensitivity of the service providers;
- A review of current child-related laws and research on how Children’s Act could help protect the rights of all children;
- A localised child development index, a robust tool to systemically measure children’s development holistically, includes not only health, education and nutrition but also home environment, accessibility to quality services, children’s rights, etc.

*e) any funding schemes to be set up under the Commission, and if so, their objectives, criteria for funding and target applicants*

**Funding schemes:** Organisation and community development; and changes to cultivate a safe environment for all children

**Objectives:**

1. To enhance child protection in government agencies, NGOs, private sectors, e.g. private tutorial centers, community centers, interest class centers;
2. To integrate child protection into the community based child care, support and protection;
3. To establish an “industry benchmark” for organisational child protection policy and best practices;
4. To promote tri-sector collaboration in advancement of child protection.

**Criteria:** Commitment, scalability, sustainability and impact

**Target applicants:** Child related organisations, e.g. institution, NGOs, private companies, aiming to develop, enhance and scale up child-protection policies, implementation manuals, facilities and mechanisms, etc.

*f) the themes and approach for the Commission to undertake promotional and public education initiatives*

The Commission should uphold the rights-based approach, *i.e.* a two-pronged approach to strengthen the capacity of duty bearers, e.g. government, social sectors, community, etc., and



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empower the right holders, children themselves. According to UNICEF<sup>iv</sup>, the core principles of a rights based approach are a) accountability of all duty bearers for obligations to children, b) universality of rights, c) indivisibility and interdependence of rights and d) participation of all stakeholders as a right.

To conclude in a nutshell, a system strengthening approach, rather than an issue-based approach, should be promoted to trigger the emergence of safe practices, approaches, interventions and environments which respects, recognizes and responds to specific protection needs of every child, regardless of sex, gender, language, ethnicity, age, ability, socio-economic or cultural background etc.

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<sup>i</sup> World Health Organisation. 2002. *World Report on violence and health*.

<sup>ii</sup> Chan, K.L., Brownridge, D.A., Yan, E., Fong, D.Y.T., & Tiwari, A. (2011). Child maltreatment poly-victimization: Rates and short-term effects on adjustment in a representative Hong Kong sample. *Psychology of Violence*,1(1), 4-15.

<sup>iii</sup> Perezniето, P., Montes, A., Routier, S., & Langston, L. (2014). The costs and economic impact of violence against children. Richmond, VA: *ChildFund*.

<sup>iv</sup> *Core principles of a rights-based approach to programming* (from Core Course: Human Rights Principles for Programming).