



18 November 2013

Submission to Panel on Constitutional Affairs on  
"Concluding Observations by the UN Committee on the Rights of the Child on  
the Second Report of the Hong Kong SAR under Convention on the Rights of the Child"<sup>1</sup>

The UN Committee on the Rights of the Child (UN Committee) in the Concluding Observations of 2013<sup>1</sup> strongly recommended the promotion of “exclusive breastfeeding and the establishment of baby-friendly hospitals” and effective enforcement of the International Code of Marketing of Breast-milk Substitutes.

WHO recommends that all mothers have access to skilled support to initiate and sustain exclusive breastfeeding for six months and ensure the timely introduction of adequate and safe complementary foods with continued breastfeeding up to two years or beyond.<sup>2</sup> The breastfeeding rate at discharge from maternity units for births in 2012 in Hong Kong was relatively high at 85.8%.<sup>3</sup> The exclusive breastfeeding rate in hospital was much lower and decreased to 19.1% by four to six months as recorded by the Department of Health.

How to achieve the WHO goal of optimal feeding for infants and young children is clearly stated in the General comment on Article 24 of the Convention on the Rights of the Child (CRC) which focuses on the child’s right to enjoy the highest attainable standard of health.<sup>4</sup> Other than through baby-friendly hospitals and the regulation of marketing of breastmilk substitutes, the measures also include the promotion of community and workplace support for

<sup>1</sup> Concluding Observations 2013 <http://www2.ohchr.org/english/bodies/crc/crcs64.htm>

<sup>2</sup> Global Strategy for Infant and Young Child Feeding 2003  
<http://www.who.int/nutrition/publications/infantfeeding/9241562218/en/index.html>

<sup>3</sup> Baby Friendly Hospital Initiative HK Association World Breastfeeding Week Annual Survey 2013  
<http://www.babyfriendly.org.hk/wp-content/uploads/2013/07/2013-WBW-Report-E-final-as-of-July-24.pdf>

<sup>4</sup> General comment No. 15 (2013) (on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)) <http://www2.ohchr.org/english/bodies/crc/comments.htm>



mothers and the compliance with the International Labour Organization (ILO) Convention 183(2000) regarding maternity leave and nursing breaks.<sup>5</sup>

## 1. Baby-Friendly Hospitals

WHO / UNICEF launched the Baby Friendly Hospital Initiative in 1991 as an incentive for maternity services to implement practices that promote, protect and support breastfeeding. After two decades, we welcome the Hospital Authority announcing that three hospitals will be starting the process of designation as baby-friendly hospitals. A generation of children has already missed out on evidence based best practices. On the other hand, with only 8 public hospitals with maternity services, the target for all units to be baby-friendly is set at 2020 which means many children and mothers in Hong Kong will still have to be exposed to the risks of formula feeding for many years to come. Around half of mothers in Hong Kong give birth in private hospitals. There is yet any commitment in the private sector to adopt these best practices to achieve baby-friendly hospital status. The requirement of instituting baby-friendly practices should be expedited.

## 2. International Code of Marketing of Breast-milk Substitutes and subsequent relevant resolutions of the World Health Assembly

The Department of Health completed the drafting of the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children in 2012. Although the public consultation ended early this year, there is no announcement of the decision to date. The adverse effect of unregulated marketing practices on breastfeeding is well explained by the Department already.<sup>6</sup> Although many trade submissions want to confine the regulation to infant formula for use below the age of 6 months, due notice should be given to WHO's view on follow-up formula in July 2013, i.e. WHO "maintains that as well as being unnecessary, follow-up formula is unsuitable when used as a

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<sup>5</sup> ILO Maternity Protection Convention, 2000 (No. 183)

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C183](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183)

<sup>6</sup> Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children: Information for the public

[http://www.fhs.gov.hk/english/news/hkcode/leaflet\\_public.pdf](http://www.fhs.gov.hk/english/news/hkcode/leaflet_public.pdf)



breast-milk replacement from 6 months of age onwards.”<sup>7</sup> It was pertinent for Dr Margaret Chan, Director-general of WHO, to point out the danger of letting industry “shape the public health policies and strategies that affect their products. When industry is involved in policy-making, rest assured that the most effective control measures will be downplayed or left out entirely.”<sup>8</sup> The government needs to take note also of the General comment on State obligation regarding the impact of the business sector on children’s rights from the UN Committee.<sup>9</sup> Children are both “rights-holders and stakeholders” in business yet they are “politically voiceless”. The government has the obligation under the CRC to “ensure that the activities and operations of business enterprises do not adversely impact on children’s rights”.

### 3. Community support

#### 3.1 Right to breastfeeding anywhere, any time

That just a month ago, there was a mother being driven out of a restaurant because she was breastfeeding is an indication that the public still lack awareness that breastfeeding is both a right of the child and the mother.<sup>10</sup> It is about time that mothers’ right to breastfeed anywhere, any time is protected by law like Taiwan and the United States.

#### 3.2 Breastfeeding rooms

Although the Buildings Department has issued guidelines on Babycare

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<sup>7</sup> WHO Information concerning the use and marketing of follow-up formula (17 July 2013)

[http://www.who.int/nutrition/topics/WHO\\_brief\\_fufandcode\\_post\\_17July.pdf](http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf)

<sup>8</sup>WHO Director-general addresses health promotion conference (10 June 2013)

[http://www.who.int/dg/speeches/2013/health\\_promotion\\_20130610/en/index.html](http://www.who.int/dg/speeches/2013/health_promotion_20130610/en/index.html)

<sup>9</sup> General comment No. 16(2013) on State obligations regarding the impact of the business sector on children’s rights <http://www2.ohchr.org/english/bodies/crc/comments.htm>

<sup>10</sup> South China Morning Post: Tung Wah Group of Hospitals sorry for café ejecting breastfeeding woman (20 October 2013)

<http://www.scmp.com/news/hong-kong/article/1335580/tung-wah-group-hospitals-sorry-cafe-ejecting-breastfeeding-woman>



Room for a single breastfeeding mother<sup>11</sup>, these are voluntary only. Even if they are provided in some shopping malls, many are rapidly used for purposes other than breastfeeding. For public buildings, because of the lack of guidance on the space allowance for mothers using the room at the same time, e.g. during lunch time for a number of breastfeeding staff in the health setting like a hospital, only the minimum area is being approved even for new public hospital blocks under construction or refurbishment. Clearer requirements in provision need to be in place for new buildings and a time frame given for existing facilities to provide such rooms. As a policy, these rooms should only be used for the designated purpose.

#### 4. Maternity Leave and Nursing Breaks

The current maternity leave of 10 weeks is far short of the ILO recommended minimum of 14 weeks<sup>5</sup> when returning to work is a major predictor of early cessation of breastfeeding.<sup>12</sup> The need to extend maternity leave in Hong Kong requires an urgent review. Mothers needs protection at work not only during pregnancy but also when breastfeeding.

The Secretary for Food and Health is encouraging civil service units to improve facilities and provide nursing breaks for mothers returning to work to continue breastfeeding. This needs to be a clear directive rather than encouragement alone. The directive should at least be extended to public funded organizations prior to adopting the ILO recommendations into law. Mothers should not have to choose between breastfeeding and work.

The health risks of formula milk feeding are well known.<sup>13</sup> While Hong Kong is looking into the alleviation of poverty and social mobility, the cost of infant formula feeding, just counting the formula milk costs alone, is around HKD1,000 a month while breastfeeding is

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<sup>11</sup> Buildings Department: Provision of Babycare Rooms in Commercial Buildings (2009)

<http://www.bd.gov.hk/english/documents/pnap/signed/ADV032se.pdf>

<sup>12</sup> Tarrant M, et al. Breastfeeding and weaning practices among Hong Kong mothers: a prospective study (2010) <http://www.biomedcentral.com/content/pdf/1471-2393-10-27.pdf>

<sup>13</sup> Ip S, et al. Breastfeeding and maternal and infant health outcomes in developed countries (2007) <http://www.ncbi.nlm.nih.gov/books/NBK38337/>

free. Breastfeeding enhances brain development and cognition<sup>14</sup> which contributes to breastfeeding increasing the odds of upward social mobility and reducing that of downward mobility.<sup>15</sup> Hong Kong is struggling over landfills. Breastfeeding relieves the burden of having to dispose of the massive loads of bottles, teats and tins while saving fuel and water. Hong Kong is concerned with the sustainability of our population. What a better way is there to start by investing in a healthy childhood population through creating an environment that empowers and enables mothers to breastfeed.

Although WHO has recommended exclusive breastfeeding for six months for over 10 years, Hong Kong's exclusive breastfeeding rate at four to six months has remained below 20% all through. A major reason is that the government has not fulfilled its obligation under the CRC to establish a Children's Commission, adopt a comprehensive policy on children, develop coordinated plans of action with clear objectives for the implementation of the CRC and allocate "adequate human, technical and financial resources for their implementation, monitoring and evaluation."<sup>1</sup> Just in relation to article 24 on health alone, the Breastfeeding Policy of the Department of Health remains that of the Department and not that of Hong Kong so that the Department has difficulties generating interest on the subject in other departments or bureaux, and in implementing a comprehensive approach to breastfeeding for the whole of Hong Kong.

The government being adamant that scattering policies related to children amongst bureaux and asking the Chief Secretary for Administration to oversee these policies is suffice for children in Hong Kong<sup>16</sup> because of Hong Kong's peculiar situation is not a response accepted by the UN Committee. The Family Council is not a Children's Commission and is not serving the function of such a commission as defined by the UN Committee.<sup>1</sup> While family values are important, a request for a "family perspective" on policies is not equivalent to a child impact assessment.

The Hong Kong government has declared that "the best interests of the child have

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<sup>14</sup> Belfort M, et al. Infant feeding and childhood cognition at ages 3 and 7 years: Effect of breastfeeding duration and exclusivity (2013) <http://archpedi.jamanetwork.com/article.aspx?articleid=1720224>

<sup>15</sup> Sacker A, et al. Breast feeding and intergenerational social mobility: what are the mechanisms? (2013) <http://adc.bmj.com/content/early/2013/04/24/archdischild-2012-303199.full.pdf+html>

<sup>16</sup> The Government of the HKSAR's Response to the List of Issues raised by the UN Committee on the Convention on the rights of the Child (2013) <http://www2.ohchr.org/english/bodies/crc/crcs64.htm>



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consistently been essential considerations in all relevant decision-making of the government.”<sup>13</sup>

Let us see the government put words into practice by addressing seriously the recommendations of the Concluding Observations of the UN Committee. Establishing a Children’s Commission according to the recommendations will not only protect the right of the child and the mother to breastfeed, as is the prime concern of our association, but many of the other inter-related rights which by virtue of being a human being, a child should enjoy.