

Hong Kong needs stronger child neglect and unattended children laws and policies

The scene of a girl being stuck in a drying rack outside a window this morning was shocking. According to media reports, the girl's father was at work and the mother was out grocery shopping when the girl is suspected to have climbed out of the window and got stuck in the drying rack. Fortunately, she was rescued in time with the help of passers-by and neighbours. The case has flagged up concerns about child neglect again.

Home is often regarded as the safest place. Necessarily, parents think that their children will be safe in a familiar place but unfortunately this might not always be the case. And it is too late for regrets when a tragedy occurs.

In 1991, four children locked up and left alone in their home in Ho Man Tin burned to death after playing with fire. This was one such tragedy that directly led the Hong Kong government to address the issue of leaving children home alone and neglecting them. The government in the same year published a public consultation paper and proposed a four-pronged approach: (1) Improving childcare services (2) Establishing mutual aid organizations (3) Enhancing public education and (4) Legislation. There was a general consensus that the first three proposals must be implemented as soon as possible, but the community had divergent views on whether parents or guardians should be legally bound not to leave any child under a certain age alone at home or elsewhere.

33 years have passed since the introduction of childcare centres, nurseries, occasional childcare services, afterschool care, neighbourhood support childcare and many others, as well as public education. The government owes the community an explanation as to whether the situation has improved in light of these support measures and what explains the continued spate of such incidents, especially the number of children who have died or been injured as a result of being left alone, unsupervised.

No legislation in Hong Kong clearly addresses the very common issue of children left at home. Neither the Offences Against the Person Ordinance nor any other Ordinance makes it an offence to leave a child unattended at home. The language of the current legislation relating to child neglect is ambiguous and unfit to catch cases such as these. According to the Offences Against the Person Ordinance (Cap. 212) Section 27 "Ill-treatment or neglect by those in charge of child or young person", any person over the age of 16 years who has the custody, charge or care of any child or young person under that age wilfully assaults, ill-treats, neglects, abandons or exposes such child or young

person or causes or procures such child or young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such child or young person unnecessary suffering or injury to his health (including injury to or loss of sight, or hearing, or limb, or organ of the body, or any mental derangement), can be convicted on indictment to a maximum imprisonment of 10 years.

For parents or caregivers, the wording of the law is indeed ambiguous as to where the line is in such cases; and it is difficult for the social welfare sector to explain it clearly to parents. One can only advise or persuade with good advice to avoid legal risks.

To plug this loophole, some countries and regions have criminalized leaving children unattended at home, such as the state of Maryland in the United States, where parents can be fined USD 500 and imprisoned for up to 30 days for leaving children under the age of 8 unattended at home. In Canada's Manitoba, leaving children under the age of 12 unattended at home is prohibited, carrying penalties of up to CAD 50,000 or/and imprisonment for up to 24 months. In New Zealand, parents could risk a fine of up to NZD 2,000 if they leave a child under the age of 14 unattended at home for an unreasonable period of time and fail to make proper supervisory care arrangements. Closer to home, parents in Taiwan are prohibited from leaving children under the age of 6 unattended at home, and face a potential fine between NT\$3,000 to NT\$15,000 and parental education counseling of 4 hours to 50 hours.

Each region has developed its own policies and support measures for child protection and have adopted laws and penalties deemed the most appropriate in their respective contexts, with some regions imposing punitive criminal laws while also emphasizing restoration, i.e. parental support and parenting education.

The slow pace of child protection law reform in Hong Kong has long been criticized. Starting with the immediate introduction of a mandatory reporting system for child abuse cases, we call on the government to begin a wholesale (and long awaited) review of child protection laws, including child neglect and unattended children. Children have the right to grow up healthily and under the proper care of adults. Even one accident involving neglected and unattended children is one too many. The government should listen to and re-evaluate the public's current stance and concerns on the issue by launching a large-scale opinion survey and public consultation exercise as soon as possible. The government should also review whether the childcare support services, and parental and public education behind the legislation are suitably matched, etc. The government must take the lead to address the issue that has

persistently posed a threat to the lives of children left unattended. We need a systematic and strategic approach to review our laws and policies in a timely manner to protect the right to survival and to guarantee the protection of children's rights that they are entitled to.

Hong Kong Committee on Children's Rights

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