

By Grenville Cross

Child abuse is a blight on Hong Kong, and the situation is worsening. In 2018, there were 1,064 reports, up from 882 in 2008, a 21 percent increase. Some cases, however, are falling under the radar until it is too late, and a major reason for this is the lack of a mandatory reporting mechanism, such as exists, for example, in Australia, Canada and France.

In 2011, the United Nations committee that supervises the UN Convention on the Rights of the Child, which has applied to Hong Kong since 1994, called for reporting mechanisms to be created. It recommended that, at a minimum, professionals working with children should be required to report actual and suspected child abuse, and situations where a child is at risk of violence. Unfortunately, the Commission on Children, which, given its child protection mandate, should have taken up the cudgels, has yet to provide a lead on this.

In October, however, the ombudsman, Winnie Chiu Wai-yin, recommended that the government should examine the feasibility of mandatory reporting of suspected child abuse cases, and this now falls to the Social Welfare Department. Chiu pointed out that all too often, the authorities only become involved after tragedies have occurred. The examples cited included the horrific case of Suki Ling Yun-lam, a 7-year-old girl who was grievously abused by her own family in 2015.

Although Yun-lam's teacher noticed that she was bruised and underweight, she did nothing, and her situation was ignored by everyone. Only when she was admitted to a hospital, unconscious, malnourished, and covered with abrasions and ulcers, was the alarm finally raised, but by then she was brain damaged. In 2018, when the judge sentenced her mother to 15 years' imprisonment, and her father to four years six months' imprisonment, he condemned a "grotesquely shocking case of child abuse", involving cruelty that "knew no bounds".

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As things stand, people who see that a child needs help, whether professionals, family members or neighbors, can simply do nothing. Although many people do, of course, report child abuse, this is by no means a given. Even in a city with crowded living conditions and little privacy, there are still too many instances where, despite a child's plight being obvious, people who know what is happening look the other way. The victims themselves usually do not know how to get help, particularly when, as is often the case, they are abused by their own family members.

Although many jurisdictions now have mandatory reporting, some are more comprehensive than others. A particularly effective model exists in Ontario, Canada, where, under its Child, Youth and Family Services Act (Section 125), the public, including professionals who work with children, must, if they have reasonable grounds for suspecting that a child is being abused, and is or may be in need of protection, report the matter to a child welfare authority. The reportable abuse encompasses physical, sexual and emotional abuse, neglect, and risk of harm.

The act, moreover, helpfully defines emotional abuse as conduct that produces anxiety, depression, withdrawal, self-destructive or aggressive behavior, or delayed development. Reporting is then required if "there are reasonable

grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect of the child's parent or the person having charge of the child".

As the government considers which model to follow, particular considerations loom large. The guiding principle must be for reporting in situations where it is obvious that a child is, or may be, in need of protection, because of its situation. Anyone who, based on reasonable suspicion, and in good faith, reports child abuse or neglect should enjoy confidentiality, as well as immunity from legal liability. Punishment for nonreporting should, as in New South Wales, Australia, be related to the offences concealed, with higher maximum penalties being prescribed where the substantive offence of child abuse is particularly heinous, such as sexual molestation or unlawful wounding, and vice versa.

Once mandatory reporting is adopted, the chances of child abuse being identified at an early stage are greatly increased. This then hopefully enables it to be countered before the child is too badly damaged. If Hong Kong wants to discharge its international obligations to ensure effective child protection, the mandatory reporting of child abuse will greatly advance the cause.

The author, a senior counsel, is the patron of Against Child Abuse and a former director of public prosecutions.

參考資料 Reference:

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