

**BEYOND SOCIAL SERVICES' FEEDBACK ON THE
IMPLEMENTATION OF THE UNITED NATIONS
CONVENTION ON THE RIGHTS OF THE CHILD IN
SINGAPORE 2010**

INTRODUCTION

The United Nations Convention of the Rights of the Child is an international charter that sets out the comprehensive set of rights – civic, cultural, economic, political and social, that a child must have. On October 1995, Singapore became a signatory to the UNCRC, pledging its commitment to the promotion and protection of children's rights.

The following are Beyond Social Services' feedback on the implementation of the UNCRC in Singapore thus far:

- 1) The Children and Young Person's Act does not cover youths between the ages of 16 and 18.
- 2) The age of criminal responsibility of children has not been set to an age above 7 years.
- 3) Corporal punishment is not prohibited in institutional settings
- 4) Measures to address Singapore's competitive school system can be improved
- 5) Improve access to affordable child care for low income families
- 6) Increase the capacity of institutions, facilities and services that render assistance to parents and legal guardians with children deemed to be 'beyond parental control'
- 7) Improve access to health care and education of children who are not Singapore citizens
- 8) Legitimising "Voluntary Care Arrangements" without judicial oversight would not be consistent with Article 9 of the UNCRC

The Children and Young Person's Act does not cover youths between the ages of 16 and 18.

The government has yet to extend the Children and Young Person's Act (CYPA) to include juveniles between 16 and 18. Juvenile offenders between the ages of 16 and 18 run the risk of not being offered appropriate rehabilitation services when they run afoul of the law. Even though rehabilitative options exist for youths between the ages of 16 and 18, their exclusion from the CYPA means that they still run the risk of being punitively dealt with should they be charged with an offence. They may also not be charged at the Juvenile court.

In the case study below, if the CYPA was extended to include youths up to the age of 18, Joe would not have been charged in a court meant for adults in the first place. Even though he was referred to a community court for juveniles later on, it was only done so after an appeal was made through a lawyer. This is an unnecessary and costly procedure. The CYPA should be extended to them to ensure their best interests are taken into consideration.

Case Study

Both Joe and John lived with their parents, were in the same school and looked forward to excel in their education. Both had never gotten into trouble with the law but Joe 17 years old was now charged with Sect 324 Chapter 224, voluntarily causing hurt with a dangerous weapon which carries a punishment of imprisonment for a term which may extend to 7 years, or with fine, or with caning, or with any combination of such punishments.

The incident happened during a domestic argument between the brothers. During the course of the heated argument elder brother picked up a kitchen knife to show how angry he was. Unaware that his elder brother was holding a kitchen knife, he pounced on the elder brother and was accidentally cut. The ambulance was called, and the police decided to press charges. Joe who was 17 years old at the time of the offence was charged in an adult court. John could not understand why this was so, as he already "forgiven" his brother and things were all right between them.

The lawyer asked Joe and his mother what they wanted to do and both said they wanted to plead guilty and ask for leniency. They added that it was what everyone had been advising them to do. The lawyer told them that it was a serious charge

Any amount of time Joe spent in jail would mean that he would have to stop school and get a black mark which would affect his future.

With the representation of the lawyer, Joe's case was transferred to the Community Court. After 3 months in Community Court, Joe was remanded in Reformatory Training Centre for 3 weeks pending reports from a probation officer from MCYS. Having never stayed away from home, Joe cried almost every day whilst in RTC. Joe was given a good report by the probation officer and was sentenced to 18 month probation at home.

The age of criminal responsibility of children has not been set to an age above 7 years.

The government has yet to raise the level of criminal responsibility above the age of 7 years. The government has argued that maintaining the current age of criminal responsibility at age 7 provides for optimal early intervention and rehabilitation and prevents children from committing more serious offences later. It also serves to protect young children from being exploited by adults for criminal activities. However, this can be done through effective rehabilitation programmes that do not criminalise and stigmatise a child at such a young age. It is recommended that current laws be reviewed and the age of criminal responsibility be raised.

Case Study

Zul, aged 7 was a primary 1 boy in a Primary school when he was arrested for stealing a can of coke. The police decided to refer him to Guidance Programme (GP) under Beyond Social Services. Under the Guidance Programme, Zul had to attend Kids United (KU) – Daily Care and Guidance programme which runs every weekday after school hours.

Through monitoring Zul's day to day behavior at Kids United Daily and his interactions with his mother, we observed that Zul was not of the maturity to understand why his act was wrong. Even the task of taking the bus daily to and from school was something that Zul had yet to master at that young age. When he attempted to do so, he often would get down at the wrong bus stop and as a result, reach home in the evenings. His sister was then given the task of fetching him from school.

Corporal punishment is not prohibited in institutional settings

The government has not banned corporal punishment in schools, institutions and the juvenile justice system. It is still a prescribed method for punishment in institutions for serious infringements, albeit a last resort. Corporal punishment has limited success in the rehabilitation of youth. Even as a method to deter unsociable behavior, it may send out a message to youths that one should not get caught in the act, rather than the act itself being morally wrong or having undesirable consequences. Corporal punishment also tends to build up resentment and shame if it is done openly or without sufficient explanation. A local study conducted in 2004¹ showed that parents who used caning as the sole disciplinary method reported the most behavioural and emotional problems in their children. Specialised training for teachers and personnel working in institutions and youth detention centres on non-violent forms of discipline as an alternative to corporal punishment should be made available and promoted. The government can also do more to educate parents on non violent methods to discipline their children.

Measures to address Singapore's competitive school system can be improved

Social workers have cited cases of children who have not had the benefit of pre-school education. The lack of pre-school education leads to children not being equipped for primary school education and then struggling to catch up to others who received pre-school education. Moreover, pressures of the competitive system often lead to a general disinterest in education and could result in the dropping out of school later on. Lack of interest and forcing children to learn beyond their capabilities may also result to defiant behaviour to parents and toward school authorities which then labelling could be an outcome.

Some social workers have observed that many schools give an inordinate amount of homework to the children. Even at the Primary one level, a worker has observed that the children bring back up to 15-20 pages of assignments daily. A parent whom this social worker worked with commented that even as an adult, she had trouble answering many of the assignment questions posed to her child who was in Primary School.

Case Study

¹ Lee Y.P., Fung D.S., Wei K.C., Woo B.S., Teo J., "Between the rod and reason: a study of parental disciplinary methods and child emotional/behavioral outcomes", *Annals of the Academy of Medicine, Singapore* 33 (Sept 2004): 27--28

Natasha is a 12-year old primary six student, undertaking a major national school examination by the end of the year – the Primary School Leaving Examination (PSLE). The result of this examination determines the choices of placements in Secondary School open to her the following year.

As such, her mother, who desires the best for her child, wants her to do well. Natasha’s teachers at school also feel that she can do well as she is in one of the better classes in school. Aside from extra classes after school to prepare her for the PSLE, Natasha receives a considerable amount of homework everyday, from her different subject teachers.

High expectations from Natasha’s mother and her school have taken a toll on her. She constantly feels pressured to excel in her studies. During the year, Natasha has attended our after-school program irregularly. Her mother complains that she hangs out with her friends without asking permission and comes home late. Natasha’s sees this as distrust and at times shows disrespect to her mother.

The upcoming PSLE and the perception that she is unable to discipline her daughter have also placed substantial stress on Natasha’s mother and as a result placed even more strain on the mother-daughter relationship. Being a single mother, she already tries hard to make ends meet and provide for the family.

Recommendations:

The government should undertake measures to reduce school related stress and the competitive school system. While we applaud the Ministry of Education’s inclusion of Allied Educators² and Full-Time School Counselors in schools and the “Teach less, Learn more” initiative³, more can be done to provide children with holistic development in a less stressful environment. For example, Telok Kurau Secondary School introduced electives such as hairstyling, beauty therapy and hospitality for academically poor students. The school has reported that since the introduction of such electives, the dropout rate has dropped to near zero.⁴ If such initiatives are extended to more schools for those who are not academically inclined, this could better allow for the development of children to their fullest ability based on their own unique strengths, better engagement of children and the community, as well as contribute to a lower drop out rate.

Improve access to affordable child care for low income and single parent families

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Allied Educators are full time school personnel who work with and support teachers by applying innovative pedagogies to engage, instruct and interact with students

3 An initiative to encourage teachers to teach, engage and prepare students for life, rather than teaching more for tests and examinations

4 Jennani Durai, ‘School drop out rate drops with new schemes’ *The Straits Times*, 29th October 2009

The Centre-based Financial Assistance for Childcare (CFAC) Scheme is a government scheme which helps low income families offset child care fees of their children every month. .

However, employment of mothers is one of the compulsory criterion upon application of CFAC. There are many mothers in low income families who are unemployed. This creates a “chicken and egg” situation where an unemployed mother requires childcare before she can be employed, yet must show proof of employment before applying for childcare.

This policy does not appear to be of sufficient support to low-income families whose children are in need of childcare services because their mothers have to seek employment. It is even more challenging for single parent families. Due to their financial situation, such families, whose monthly household income is usually S\$1800 or lower, are dependent on CFAC. According to September 2009 statistics by the Ministry of Community Development Youth and Sports (MCYS), full-day childcare fees average at S\$732, and this amount is likely to increase. An approved CFAC amount is capped at \$340.

Eligibility for CFAC

The mother, and the child attending child care, must meet the following eligibility criteria:

- The child is a Singapore citizen. If the child is a permanent resident of Singapore (PR), at least one member of his immediate family must be a Singapore citizen;
- The child is below 7 years old and is attending a licensed child care centre;
- The child's family monthly income is \$1,800 and below; and
- The child's mother is working.

Despite these families wanting to be self-sufficient and the mothers wanting to work to supplement the family income, it appears that they will be at a financial disadvantage. If no alternative care for these children can be arranged, they would have no option but to either hold plans for the mothers' employment or pay an unsubsidised childcare fee rate before the mother is gainfully employed. Both options would in no way improve the family situation. This should not be the case as CFAC is targeted at low-income families who have difficulties paying childcare fees. Realistically however, there are families who fall through the cracks because of the working mother criterion upon application of CFAC.

Case Study

Thirty-four year old Alice has two young children aged two years and three months old. Her forty one year old husband works as a despatch rider on a contractual basis and therefore his monthly take-home salary is not fixed. There are also occasions where he is not called up for work. Alice single-handedly takes care of her children at home, which has not been an easy task given her elder daughter, Amanda's, difficult temperament.

Alice's plans to seek a full-time job were put on hold after she found out she was pregnant approximately one year ago. Still maintaining that this intent had not changed after the birth of her son, she began to make plans with her case-worker on the care arrangements of both her children. It was agreed that Amanda attend full-day childcare while one month old Matthew be placed with a babysitter as infant care would be too costly for the family to afford. However, a visit to the childcare centre proved disappointing when Alice was informed that

she was not able to register Amanda because of her unemployment status. While full-day childcare caters to families where mothers are gainfully employed, non-working mothers are only permitted to place their children in PCF kindergartens. Programmes in PCF kindergartens span 3-4 hours daily, but in Alice's case, this would not be a suitable option because of her employment plans.

Alice's plans were now disrupted and the frustration at being left with no alternative care for her two children was daunting. This dilemma is like a "chicken and egg" scenario where the mother needs a childcare before she can go to work but yet needs to show employment before she can enroll her child in childcare. Alice was back to square one, without an opportunity to seek a job despite being determined to improving her family's situation.

The government should be lauded when it announced a significant increase in the CFAC subsidies for low income families in Feb 2009. However, it should consider revising the policy, specifically pertaining to the compulsory working mother criterion. A grace period of at least, three months upon approval of CFAC, would be beneficial in allowing unemployed mothers adequate time to find a job. The grace period can be reviewed periodically to ascertain its effectiveness. It is hoped that a review of the policy would more closely address the difficulties faced by the lower-income families in placing their children in childcare centres here.

Increase the capacity of institutions, facilities and services that render assistance to parents and legal guardians who are 'beyond parental control'

For parents who feel they are losing control of their children, more can be done to increase the capacity of institutions, facilities and services that render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities

Parents experience many difficulties in the upbringing of their children. Sometimes, their children's behaviours are difficult to manage, and sometimes, the parent's abilities to cope with such situations are limited. It is actually the interaction of these factors and stressors that results in family conflict. One of the options available under the Children and Young Persons Act, is the power of parents to bring their children before the Juvenile Court under the Beyond Parental Control provisions. However, court proceedings may not be the best way to deal with such issues in the best interests of children.

What is a Beyond Parental Control Order?

Where a parent is able to prove to the court that they are unable to control the child or young person (under 16 years of age), the court has the power (only with the consent of the parent):

- (1) to order the child to be placed on supervision under the supervision of a statutory welfare officer; or
- (2) to order the child to be sent to an approved home for a period of not less than two years and not more than three years; and
- (3) to additionally order the child and/or the parent to undergo treatment to resolve underlying issues.

Even before any orders are made, the court may compel the attendance of the child by issuing a warrant of arrest against the child otherwise.

Where there is failure to comply with the first two orders, the court may make a fresh order against the child. If the child refuses to attend court, the court has the power to issue a warrant of arrest against the child.

Failure to comply with the third order is an offense and the child or parent would be liable on conviction to a fine not exceeding S\$2000

The public perception and potential misuse of the Beyond Parental Control process

With these provisions in the law, parents may choose to go directly to court rather than take advantage of any available diversionary measures. Also, when diversionary measures do not appear to be effective, parents are often then encouraged to proceed to court.

Beyond Parental Control processes give parents the power to bring their children to court, where the court could issue warrants or arrest, and make orders against the child. The Beyond Parental Control provisions are intended to deal with the family situation in the best interests of the child rather than in a blaming and punitive manner. Unfortunately, there are some parents who may perceive this whole process as one in which parents can complain about their rebellious children to court, and use the authority of the court to force their children to behave.

Parents may take this option as a short cut to discipline their children. This may be a result of a parent's inability to discipline their children competently. In some circumstances, this would be a misuse of the power to bring the child to court. Essentially what starts off as a quarrel between parent and child, ends up as an issue in court where the child may be in a disadvantaged position. The parents make the decision to bring the child to court, there they convince the court that they are unable to control their child, and the court makes a Beyond Parental Control order against the child, ostensibly in the best interest of the child. Orders, such as institutionalization, may be inappropriate to tackle the issues of families in conflict.

Stigmatisation and the ill effects of institutionalization

Orders for institutionalisation, where it is deemed necessary, would be for a period of not less than two years and not more than three years. In some cases, this merely delays the resolution of issues and sometimes does more harm than good. It places great stress on the relationship of the child with his family, and from the child's perspective, placing him in a home is punishment for his behaviour and lets the parents off the hook. It also creates a divide between the child and his/her parents as the youths may view the filing of BPC as their parents intentionally wanting to get their children into trouble and letting them suffer the consequences in a punitive manner. They may also question whether their parents love them.

Beyond this, the public may not perceive a clear distinction between BPC kids and juvenile delinquents. Both groups of children are sometimes sent to the same facilities and this further reinforces the idea that BPC children are at fault.

Beyond Parental Control case 1 – Does the process treat the child like a criminal? (From a child's perspective)

Raja's mother filed for a Beyond Parental Control Order upon the advice of the police, when she thought that her son was mixing with bad company and returning home later than usual.

Raja a 13 year old, describes his fate; *'Then misfortune started to fall upon me. On December 4, 2007, the police came to my home and arrested me even before I could go to school to collect my Primary School Leaving Examination results. I was put on remand for one month under lock-up and I did not even understand why I was taken away. The police then informed me that my mother filed a court order for "Beyond Parental Control" and I was very upset as I did not do anything wrong at all. My mother thought that I was mixing with bad company and she took the advice of her neighbours to file a court order to put me away.*

At the remand, the other inmates bullied me but I just ignored them as I did not want any trouble. On January 4, 2008, I was sent to an agency contracted to do counselling and the statutory supervision officer assigned to my case recommended that I go to a youth hostel under supervision order for one and a half years. I was very angry when I heard this as I was really innocent. I cried and walked out of the counselling room and went home. The next day I got a call from the officer that I was supposed to go to court that day for a hearing but I did not turn up so it was considered contempt of the court.

The police then came to my home with a warrant of arrest and sent me to remand for one month and thereafter ordered that I be sent to a youth hostel for two years. After the police brought me to the hostel, I ran away again within two hours as I felt I was really innocent. After staying away from one month, I decided to surrender so I asked my mum to call the police to arrest me as I was tired of running away. The police came and handcuffed me away.

Shortly after I was in the youth hostel, I ran away again as I was really unhappy and wanted to be back with my friends. This time round, the Care Centre Manager paid me a visit and informed me that he had been working very hard in the background to try his best to recommend to the court to release me as I was really innocent. By this time, my mother also wanted to withdraw the court order filing for "Beyond Parental Control" as she did not realise the harmful consequences of what she had done to me. After a few more months, the courts eventually discharged the order at the wishes of my mother.

What does it actually mean to be Beyond Parental Control?

In a situation where parents are truly unable to control their children, someone else needs to care for these children who, without the care and guidance of their parents, are vulnerable to negative peer and other adult influences. Such cases then fall within the definition of children in need of care and protection under the Children and Young Persons Act. Helping families within the care and protection framework allows the underlying issues to be explored more holistically, provides greater flexibility in possible intervention, and reduces the chances of children being stigmatized.

The parents in families that are quarrelling or fighting with each other require adequate services and assistance in the performance of child-rearing, which is their primary responsibility. Going to court at the first instance or at any time, may not provide them with appropriate services and assistance.

Recommendations

The government should render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and should ensure the development of institutions, facilities and services for the care of children seen to be beyond their control.

Instead of framing the problem as lying on the child's behaviours or the parent's lack of capacity, preserving the rights and responsibilities of the family requires that the concerns and conflicts within the family be viewed as something the family has to work through together. Rather than taking a punitive stance, social support services for children and their families should be strengthened by a range of services which is appropriate to the families' needs. The BPC process stigmatizes the child and the general public may believe that BPC is for the punishment of delinquent behaviour. If parents have serious difficulty managing the behaviour of their children, they should be given the support to care for their children rather than focusing on their children being uncontrollable, needing treatment/ counseling, or even needing to be institutionalized away from their families.

Within the Children and Young Persons Act, children being handled under the BPC process could be managed under the care and protection framework. The care and protection framework is better placed to look at the family's situation holistically and appreciate the underlying causes of outward behaviour. As such, the government should enhance current levels of social support services for the family to sort out the issues between them before allowing the family to file the BPC Order. BPC should be their last resort rather than their first resort. Such assistance and services should also be extended to families facing serious difficulties with their children between the ages of 16 and 18 years.

Improve access to health care and education of children who are not Singapore citizens

Social workers we interviewed have encountered some children and youths who are without a nationality or who are 'stateless' because their birth or citizenship status were not registered by their parents or guardians. A child born to a parent or parents who are foreigners and not legally married at the time also run the risk of being stateless, or not possess Singapore citizenship.

We have also spoken to social workers who have encountered children who may have either parent who is a Singaporean but find it difficult to obtain citizenship or permanent residency status currently, as their children might have been born overseas and was not registered as a Singapore citizen at birth.

Children in these categories may find it difficult to qualify for educational and health subsidies because they are not Singaporeans. The government should consider undertaking a review on the needs and problems of such families, ascertain the seriousness of the issue and devise ways to ensure that their best interests are taken into consideration.

Legitimising “Voluntary Care Arrangements” without judicial oversight would not be consistent with Article 9 of the UNCRC

Please refer to our 2nd round of feedback on the CYP A amendment Bill pages 6-9 that can be found on the link below:

<http://beyondresearch.sg/2nd%20round%20of%20feedback%20CYP A%20amendment%20Bill%202010.pdf>