

**HKSAR Legislative Council
 Panel on Constitutional Affairs**

**Outcome of the hearing of the Report of the Hong Kong Special Administrative Region by the
 United Nations Committee on the Elimination of Racial Discrimination under the International
 Convention on the Elimination of All Forms of Racial Discrimination ('CERD')**

Monday, 19 November 2018
 2:30 pm to 4:30 pm
 Conference Room 1 of the Legislative Council Complex

Verbal Submission
 by
 Map Tang

PathFinders Limited

Background Reading:	
LegCo reference	https://www.legco.gov.hk/yr18-19/english/panels/ca/agenda/ca20181119.htm
PF's 2015 Submission to Ombudsman about unregistered babies	PF 2015: http://www.pathfinders.org.hk/public/wp-content/uploads/PathFinders-November-2015-18-Ombudsman-Investigation-Unregd-Babies-FINAL-PDF.pdf
And	And
Ombudsman's 2018 reply	Ombudsman 2018 Report - Executive Summary only (Long version is in Chinese): https://ofomb.ombudsman.hk/abc/files/DI391_ES_E-11_6_2018.pdf
2018 June: PF Academic Paper about asylum-seeking children in HK	http://www.pathfinders.org.hk/public/wp-content/uploads/PF-Paper-Submission-to-2018-June-IACL-congress-FINAL.pdf See especially pages 9-10

INTRODUCTION

Chairman and Committee Members:

Good afternoon. My name is Map Tang from PathFinders. I represent the babies and children we help every day. PathFinders is 10 years old and has helped over 6,000 of the most vulnerable babies, children and their migrant mothers in Hong Kong.

There are significant ethnic minority and dual-heritage populations (including pregnant, migrant workers, asylum seekers and immigration overstayers), who have their children while living here. That is quite natural and should be both expected and planned for. PathFinders is aware of at least 2,500 babies and children who, but for our support would remain largely undocumented and stateless. These numbers are shocking and require urgent attention.

In 2015, we flagged the statelessness of the babies and children we help to the Ombudsman as part of its investigation into unregistered births. Despite the Ombudsman's 2018 report and recommendations, the huge numbers of new babies and children we help to become documented continues unabated. This needs to change!

We want to flag three acute concerns regarding Hong Kong's ultra-vulnerable ethnic minority and mixed-race children:

BIRTH REGISTRATION

Birth Registration: The birth registration system is failing our ultra-vulnerable populations. They are not immediately provided with e-birth returns at hospitals, or given information in languages they understand, and in turn fail to obtain birth certificates which in turn leads to the babies and children being left stateless - because having an identity, and specifically a birth certificate, is prerequisite to acquiring citizenship. Also, just practically speaking, birth certificates cost too much for our clients.

Our second concern is for:

CHILDREN OF IMMIGRATION OVERSTAYERS

Babies born to immigration overstayers: these Hong Kong-born babies are typically and automatically categorised as immigration overstayers - and since these babies frequently and typically also do not have a birth certificate, the only document that shows they even exist, is an Immigration Recognizance Paper. This is unacceptable - having an identity is the most fundamental right. Also, the babies have not overstayed - they have just arrived, having been born here!

Our third concern is for:

CHILDREN IN NON-REFOULEMENT PROCESS

Children in the non-refoulement process: In March 2018, the Government confirmed that there were 119 children with USM claims pending. By September 2018, Immigration

Department reported¹ that the number of minor claimants had shrunk to 61. Where are these 58 children? Are they safe and in a loving family environment? Who is ensuring that their best interests are represented? What policy or procedure is used to determine their fate and their future?

ALL CHILDREN

For all these groups of children I mentioned - those born to ethnic minorities, those born to immigration overstayers and to migrant workers, and those in the non-refoulement process - there is a fundamental lack of legal representation and consideration of the child's best interests. The child remains largely a silent passenger in adult-centric processes that fail to prioritise the child and, crucially, fail to represent or prioritise where the interests of the parent or guardian of the child diverge.

In closing, we make three comments:

1. We welcome the Government's announcement that its 'Steering Committee on Ethnic Minorities' will work alongside NGOs. We are happy to collaborate and, given our client numbers and government and consular case referrals, would appreciate some support, please.
2. The UN CERD Committee's Recommendation Number 52 recommends that Hong Kong ensure that all children born in HK are issued with a birth certificate, irrespective of the legal status of the parents or the ability to present residence registration papers; and that we intensify our efforts to identify stateless persons.
3. From PathFinders' perspective, we agree with the Committee and look forward to working with the Government to ensure that every child in Hong Kong is properly documented, has an identity and, where appropriate, is granted citizenship.

Thank you for listening.

¹ <https://www.immd.gov.hk/eng/facts/enforcement.html>