

The Shadow Report On China Child Protection

1. Founded in 1999, the Beijing Children's Legal Aid and Research Center ("the BCLARC"), was the first Chinese NGO specializing in children's rights. In August and November 2005 respectively, Ms. Arbour, United Nations High Commissioner and Mr. Manfred Nowak, the United Nations Special Rapporteur on Torture, visited the BCLARC and spoke highly of our work. In this report, the BCLARC aims to present an overview of child protection issues in China over the last four years, including our findings, progress, challenges and recommendations.
2. In the last four years, China has made significant progress on child protection legislation. In 2006 and 2007, the National People's Congress Standing Committee amended and implemented the *Compulsory Education Law* and the *Law on the Protection of Minors*. These two laws reflect the spirit and intention of the *Convention on the Rights of the Child* and implement the principle of equal access to education in a number of ways. For example, the new laws repeal the old miscellaneous fees provision which provided a barrier to students from poor families going to school.
3. There have also been improvements made to the juvenile justice system and the child welfare system. In 2006, the People's Supreme

Court and the People's Supreme Procuratorate promulgated independently the *Rules of the People's Supreme Court on the Trial of Juvenile Delinquency Cases* and the *Interpretation of the People's Supreme Court on Issues Concerning the Specific Application of the Law in Trials of Juvenile Offenders* which became the foundation of the juvenile justice system. In 2006, 15 State ministries including the Ministry of Civil Affairs issued *Opinions on Strengthening Assistance to Children Who Lack Family Care* which strengthens assistance to children without caregivers, including street children and orphans.

4. The Government is also paying more attention to the active role of NGOs in the field of child protection. NGOs and other experts have played an increasingly important role in the drafting and amendment of legislation. For example, the BCLARC was heavily involved in the legislative survey and discussion when the PRC *Law on the Protection of Minors* was revised and even drafted the first version of the Bill. Lawyers from the China Lawyers' Cooperative Network of Child Protection, which was initiated by the BCLARC, also participated in the drafting of local child legislation in provinces such as Hunan, Liaoning, Anhui and Zhejiang. From September 25 to October 2 of 2007, three lawyers from the BCLARC participated in the *Treaty Body Training Workshop for Civil Society Representatives* in Geneva which covered the ways and means of promoting international human rights.

5. Given the large volume of cases handled by the BCLARC, our lawyers fully understand the problems and challenges associated with the protection of children. One of these challenges is the demand to strengthen inter-agency collaboration on child protection. In order to achieve this goal, China's State Council has established the National Working Committee on Children and Women. There are also dual comprehensive committees at provincial, municipal and county levels; a working committee on women and children; and a specialized child protection committee. However, the administrative offices of the two committees are often located within government organized non-government organizations. In addition, they are often under-staffed and inadequately financed. This greatly hampers their effectiveness in coordinating and promoting the protection of children. Accordingly, we recommend the establishment of a strong, comprehensive, coordinating mechanism to supervise and guide all the relevant departments as soon as possible.
6. Strict legal enforcement measures are also required to enhance child protection. China has some advanced administrative rules and regulations, such as the *Provisions on the Prohibition of Child Labour*. But many of them have not been well enforced. The result is that most law enforcement agencies do not have professional staff to ensure the protection of children's rights, as rarely, if ever, are they

provided with the necessary training. Accordingly, we recommend that the staff of relevant government departments receive appropriate training in child protection so that cases of children's rights being violated will be prevented.

7. With respect to the protection of children in the judicial system, the Court has established juvenile tribunals across the country. However, neither the Procuratorate nor the Public Security Bureau have similar specialized divisions staffed with specialized personnel. Although the Supreme People's Procuratorate and the Ministry of Public Security have promulgated some judicial interpretations and regulations relating to the establishment of such professional divisions dealing with juvenile cases, these have not been properly implemented. Therefore, we recommend that the Supreme People's Procuratorate and the Ministry of Public Security establish professional divisions to guide and coordinate juvenile cases and that they promote the local procuratorates and public security organs to establish professional divisions staffed with professional prosecutors and police as soon as possible. Such coordination among judges, prosecutors and police will result in a better system of juvenile justice.
8. The Government also needs to establish a scientific, effective system of data collection, management and dissemination. Currently, China lacks a scientific statistical standard on child information collection

and dissemination, which makes data collection difficult. In addition, the information-sharing mechanism between departments is not standard, nor is statistical analysis and dissemination of information. This results in haphazard, inconsistent and incomprehensive policy-making. Accordingly, we recommend that a scientific, effective system of data collection, management and dissemination of information be established as soon as possible.

9. As China is both a developing country and a country with 341 million children, the Chinese Government faces many challenges with respect to child protection. The BLARC understand these challenges and hopes that the United Nations human rights protection agencies will give more financial and technical support to China in this area in the future.

10. We would like to thank the following organizations for their contribution to this report, the Child Protection Legal Affairs Committee of Beijing Lawyers' Association, the Child Protection Committees of the Anhui Lawyers' Association, the Fujian Lawyers' Association, the Liaoning Lawyers' Association and the Inner Mongolia Lawyers' Association, the Youth Working Committee of Shanxi Lawyers' Association and the Shanxi Child Legal Aid Office.