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Blue Skies China's Response to the Outline of the Fourth Report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations International Covenant on Economic, Social and Cultural Rights (UNICESCR).

The Central People's Government (CPG) will submit China's third report under the United Nations' International Covenant on Economic, Social and Cultural Rights (ICESCR), which will include the respective implementation in Hong Kong, based on Hong Kong's fourth report under ICESCR.

After reading the consultative outline of the report prepared by Hong Kong's Constitutional and Mainland Affairs Bureau (CMAB), Blue Skies China would like to state its concerns in relation to "Article 12: The right to health".

The submission would be remiss if it did not raise the issues of tobacco use and secondhand smoke in Hong Kong. The government would no doubt like to elaborate on its claimed achievements in bringing the smoking prevalence in Hong Kong down; on its recent landmark ban on e-cigarettes.

However, in boasting about its achievements, the government rarely reveals the skeletons in its closet: the anomalies and inaccuracies in the way it records and presents smoking prevalence; the high levels of secondhand smoke breathed by pedestrians in busy streets; the failure to raise tobacco tax; the failure to tackle illegal smoking; and the failure of tobacco control to stem the tide of illegal cigarette advertising, in particular the prevalence of cigarette packets displayed next to children's magazines in convenience stores.

While recognising the government's good work, we believe some humility is now required to go forward and push for a smoke-free and healthier Hong Kong, and Hong Kong's fourth report on UNICESCR, which will form part of China's third report, would be an adequate platform for such humility.

Smoking statistics

The vision announced the 2018 Policy Address to reduce smoking rates is admirable, but without a systematic way to measure smoking status in Hong Kong, it is a meaningless goal.

Currently, for smoking statistics in Hong Kong, we must rely on ad hoc surveys by the Census and Statistics Department (eg <https://www.statistics.gov.hk/pub/B11302642018XXXXB0100.pdf>) There are a number of problems with this:

1. Ad hoc means we cannot, as a research or lobby community, rely on or expect an annual report into this important facet of our community. It is difficult to compare data when it is coming at seemingly random time periods. It also makes data harder to find and examine when it is usually packaged with some other issue, eg internet use in Hong Kong. The issue is serious enough to deserve its own report.

2. The data supplied by the Census Department is limited and incomplete. We understand a high-level report is required: but, for example, the report chooses only “Daily Smokers” to expand its data coverage, giving an incomplete picture of the true nature of Hong Kong smoking status (eg data on those who smoked in the last 7 days). There is no way to drill further into the data as only the high-level data is printed.

3. The full data is not available for download or further statistical analysis by researchers.

4. The methodology by the Census Department is suspect; for example, teens and young adults are asked about their smoking status in front of their parents, which is an obviously unreliable method; and the survey entirely relies on self-reported data, not eg saliva cotinine tests or other scientifically proven tests of measuring actual smoking status.

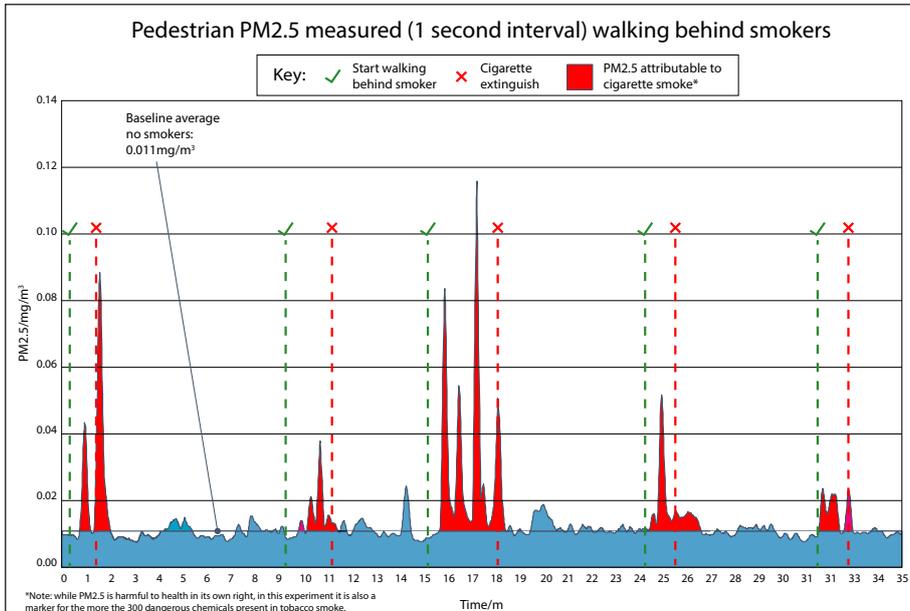
5. We have requested the number of mainland smokers coming into Hong KONG be included in the government’s annual Air Pollution Emissions Inventory - however, the government response is: “We do not know how many mainland smokers are coming into Hong Kong, therefore we cannot include them in the Inventory”. Given our estimates that around 1.25 million mainland smokers come into Hong Kong EVERY MONTH, we believe this should be addressed.

It is proposed the government reveal these shortcomings in its report and pledge to

- set up an annual dated State of Tobacco Survey;
- add a saliva cotinine test (or other reliable smoking-status test, eg CO) for at least a certain % respondents to assess reliability of self-reported data;
- makes all data downloadable and open source for external researchers to use;
- address the issue of children/young adults reporting in front of their parents by changing the survey methodology or considering to develop a specific Youth Tobacco survey with childrens’ surveying issues addressed; and
- work with Tobacco and Alcohol Control (TACO)/Immigration/Customs to assess and accurately count how many mainland Chinese smokers are coming into Hong Kong every month, such that the figure can be included in Hong Kong’s annual Emissions Inventory.

Secondhand smoke

Worldwide, SHS causes 890,000 deaths per year^[1], while in China, 6.9% of all smoking-related cancer deaths are due to SHS breathed by non-smokers^[2]. The World Health Organization (WHO) has

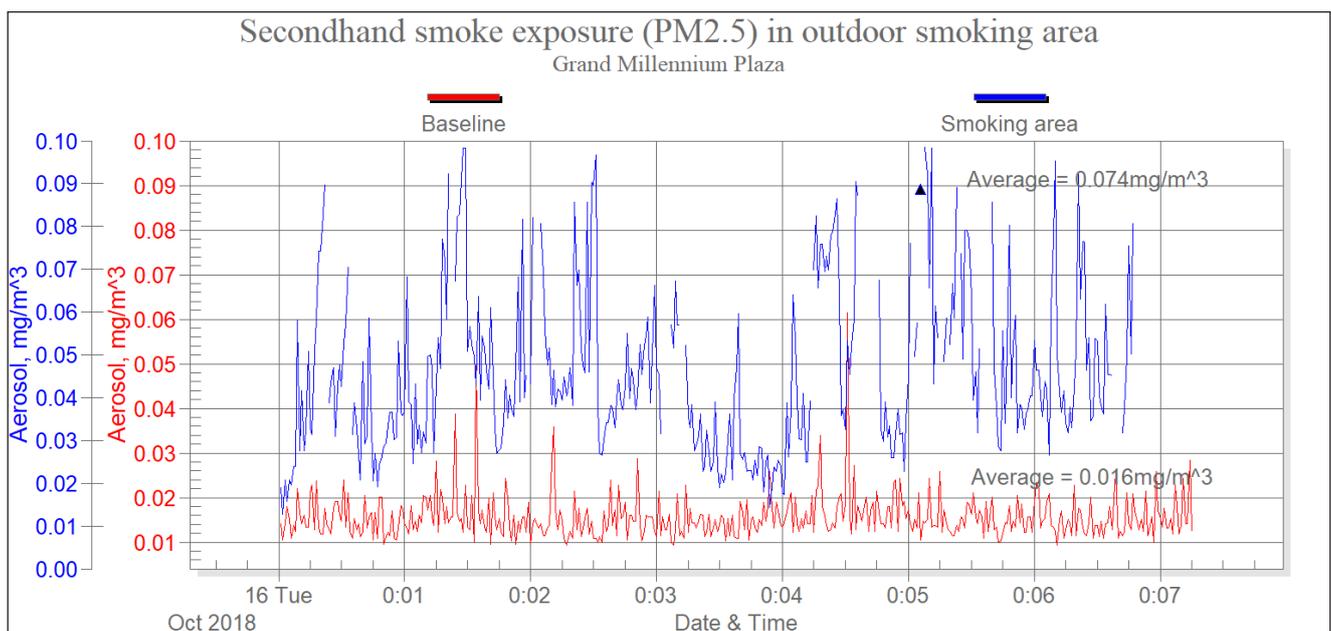


said there is no safe level of exposure to SHS^[3], creating an imperative to study the issue. There is no literature on the subject for Hong Kong. In October 2018, we devised three studies using PM2.5 as a marker for SHS. The experiments aimed to add to local knowledge about SHS and specifically assess the environmental impact of cigarette smoking on

pedestrians. and found cigarette pollution from walking behind smokers on busy streets accounted for 20% of the pollution breathed during a 35 minutes walking test.

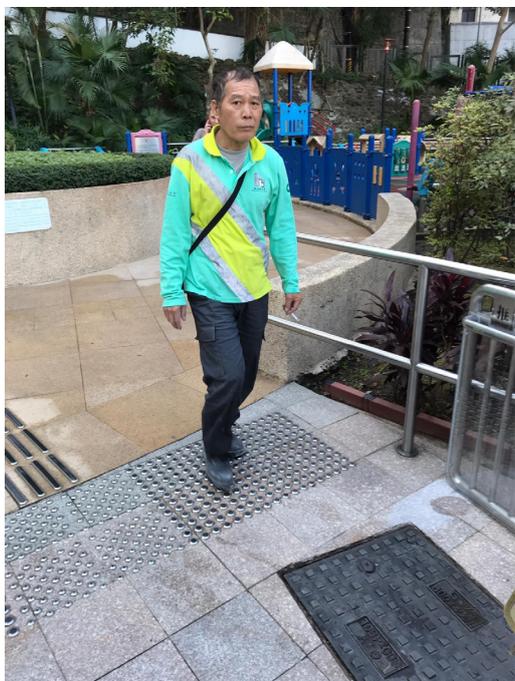
We also studied the air quality in smoking areas, and found it dangerous. Many “smoking areas” in Hong Kong are not just for smokers, but pedestrians are forced to walk through the areas. As others have found^{[4],[5],[6]}, air quality near building entrances and in outdoor smoking areas can be poor when smokers are present.

We identified six outdoor smoking areas in Hong Kong, with a view to measuring the secondhand smoke through a PM2.5 proxy. We found outdoor smoking areas to be unsafe for non-smokers, with average PM2.5 = 3.8 times baseline in smoking areas.



Failure to raise tobacco tax

The government itself quoted WHO in 2014/15 claiming raising tobacco tax was an effective way to bring down smoking prevalence. However, this was the last time the tobacco tax in Hong Kong was raised. According to Council on Smoking and Health (COSH): “Currently, cigarette price of the major brands in Hong Kong is about HK\$57 per pack, the tobacco tax is only about 67% of the retail price, which is lower than the 75% recommended by WHO. The retail price is also low when compared to other developed regions such as Australia (about HK\$154), New Zealand (about HK\$133), the United Kingdom (about HK\$94), Canada (about HK\$78) and Singapore (about HK\$75). Other countries have also adopted a long-term and continuous tobacco tax policy. For example, Australia set a 12.5% annual increase from 2013 to 2020; New Zealand had implemented a 10% annual tax rise from 2012 to 2016 which brought about a reduction of tobacco consumption per capita by a quarter and motivated thousands of smokers to quit, while a 10% annual increase will be implemented from 2017 to 2020 to



Smoker in children's playground Sai Ying Pun. Construction workers use the playground as a short-cut. 6 months complaints to various government departments have failed to stop the problem.

maintain the price effect on the demand of tobacco products. Dr Hana Ross, Professor of School of Economics of University of Cape Town, South Africa analyzed that the relative price of Hong Kong's tobacco products in 2015 was cheaper than 1991. To lower the smoking rate to a single digit percentage as soon as possible, it is proposed to increase the tobacco tax substantially by 100%.

Failure to tackle illegal smoking

The Office of The Ombudsman announced the direct investigation report on “The Mechanism of the Food and Health Bureau (FHB) and the Department of Health (DH) for Handling Smoking Offences” on 1 February 2018. Inadequacies and recommendations for improvement are listed in the report.

According to the report, TACO (formerly TCO) has an establishment of 89 law enforcement officer to handle about 20,000 complaints and conduct nearly 30,000 inspections every year. The number of enforcement staff is not enough to meet the enormous number of complaints, and causes insufficient inspections at night and in public holidays. According to the information of FHB and DH, during the course of investigation TACO has already deployed additional staff specialising in surprise inspection at night. For more effective enforcement, the Ombudsman also recommended TACO to enhance enforcement actions by plain-clothes officers, setting priorities for different locations, and review the arrangement of evidence provision, etc.

As parents, this is particularly worrisome. Playgrounds in use by children are regular haunts for illegal smokers. We made ~1,000 complaints in 2018 to TACO including many complaints about construction

workers illegally smoking in, for example, Caine Road Gardens playground. After six months complaints to FEHD, LCSD, TACO, the police, the construction company (CR Resources) and the construction client (Ying Wa Girl's School), the problem is still not resolved, with an average of 8 illegal smokers seen in the park between 11:30 and 12:30 every day. The pollution and toxic chemicals, including addictive nicotine, is breathed into the children's path and causes a health hazard, truly violating their human rights to a clean environment and demonstrating that Hong Kong's laws supporting a clean environment are ineffective.

Failure to tackle illegal cigarette advertising



Cigarette packets at child-head-height in Central 7-11.

Since the ban of cigarette advertising in Hong Kong the tobacco industry has increasingly focused its marketing activities at the point-of-sale. Illegal tobacco advertising is widespread in Hong Kong; each of the ~900 7-11 stores and ~400 Circle-K stores displays tobacco advertisements featuring cigarette packets and colourful cardboard displays and graphic devices. **Many of these contravene Part IV of Cap. 371**; worse than this, many are at child-head-height and displayed with children's magazines (see figure). Almost every street stall can be seen displaying illegal

advertising.

According to a representative of Circle-K, the **cigarette companies pay the stores for these spaces**. They are outright advertising; what's unbelievable is that such illegal commerce can brazenly take place in such public spaces in our city. This impacts our children's future health: cigarette advertising has a strong impact on our children, and exposing them to these addictive products is a violation of their rights.

We have made many complaints to TACO about these illegal and dangerous advertisings, but there has been little impact from its interventions. Advertisements may be removed after an inspection, for a few days, and then is restored. To our knowledge, there has been zero prosecutions for this widespread practice in convenience stores in 2018. We urge the government to admit its failings in the ICESCR report and take the issues of tobacco control more seriously in the coming years.

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