



透過聯合國普遍定期審議機制於香港推動人權  
Advancing human rights in Hong Kong through  
the UN Universal Periodic Review process

香港普遍定期審議聯盟督導委員會  
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## **UPR Info Pre-Session Statement – 9 October 2018**

### **Overview of Hong Kong UPR Coalition**

- The Hong Kong UPR Coalition represents the collaborative efforts of civil society to advance human rights in Hong Kong through the UPR. Founded in 2017, the Coalition comprises over 45 NGOs and is the most comprehensive engagement ever in Hong Kong for the UPR.
- Activities over the last year include:
  - submission to the Human Rights Council, 1 civil society workshop, 4 submission drafting workshops and extensive consultation over several months;
  - submission to Hong Kong government;
  - submission and deputation to the Legislative Council;
  - over 150 meetings with various stakeholders; and
  - social media presence, 24 fact sheets and more.

### **Consultation process in Hong Kong**

- The UPR consultation process lacked transparency and accountability.
- The Hong Kong government had a consultation on an 'outline document'. There was insufficient information and no feedback.
- Government refused to release a draft of the Hong Kong section of the national report for feedback. This was despite multiple calls from civil society and a joint letter from 25 Legislative Council members.

### **Statement summarising human rights concerns in Hong Kong**

- No recommendations mentioned Hong Kong in the second cycle. However, in the third cycle we know it will be different. We know countries will make recommendations and we encourage all of you to do so too.

### *Legislative and institutional framework*

- There is no comprehensive ordinance incorporating all human rights treaties. Further, there is no independent statutory human rights institution to investigate and monitor human rights violations.
- The Equal Opportunities Commission is confined to exercising powers through anti-discrimination laws, which are narrowly framed. It rarely exercises its statutory powers fully.

### *Human rights defenders*

- Human rights defenders are under surveillance from mainland agents, harassed, abused and attacked by pro-China and Chinese Communist Party United Front Work Department sponsored organisations.
- Political parties are registered as societies or companies. However, some are unable to do so. Attempts to open bank accounts have been denied. The government recently banned the Hong Kong National Party.

### *Freedom of expression*

- Press freedom has decreased rapidly. Journalists and other media workers, supporters of democracy and those expressing critical views, have been attacked and threatened. Self-censorship is common.
- Academic figures have been removed from their posts, had promotions blocked, or are facing pressure to be removed.
- In 2015, five Hong Kong booksellers were abducted, including Lee Bo from Hong Kong. Gui Minhai continues to be detained in the mainland.
- Just last week, a journalist from Financial Times had their visa renewal rejected. This is an unprecedented infringement on freedom of expression and the press.

### *Access to information*

- Obtaining information from government is difficult, with responses taking a long time, even if successful. There is no legislation on access to information, only a code. There is no archiving law for government records.

### *Rule of law*

- China's Standing Committee of the National People's Congress (NPCSC) has unrestrained power to interpret the Basic Law – Hong Kong's constitutional document. However, NPCSC is not a judicial body or independent.
- The interpretation power is an intrusion into judicial and legislative independence. The latest interpretation in 2016 was made during a Hong Kong court proceeding before its judgment, undermining rule of law.

### *Universal and equal suffrage*

- The Chief Executive and all members of the Legislative Council should ultimately be elected by universal suffrage. However, there has been no progress since 2013.
- Candidates standing for election in Hong Kong have been screened on their political beliefs. More than 12 have been disqualified.

### *Right of peaceful assembly*

- Colonial era laws, which breach international human rights, such as the Public Order Ordinance, are increasingly used to arrest and prosecute protestors, restricting assembly rights.
- The decision to prosecute criminal offences is the responsibility of an appointed official. Stronger sentences for pro-democracy activists have been sought by the Secretary of Justice, despite contrary advice from the Department of Justice.

### *Equality and non-discrimination*

- The Race Discrimination Ordinance exempts government powers and functions. Racial minorities and non-refoulement claimants report targeted harassment by police.

### *Asylum seekers and refugees*

- The Refugee Convention and its protocol does not apply. Acceptance rate for non-refoulement claimants is 0.9%. Claimants cannot work.
- Children of asylum seekers born and educated in Hong Kong do not have the right of abode.

### *Human trafficking*

- Despite consistent calls from civil society and UN Committees, the government has refused to introduce comprehensive legislation to combat trafficking. Existing legislation on forced labour is insufficient.

### *Disability rights*

- The Mental Health Ordinance restricts the legal capacity of persons with disabilities, predicated on grounds of mental capacity.
- The Disability Discrimination Ordinance does not require reasonable accommodation for persons with disabilities in all relevant fields.

### *Rights of the child*

- Hong Kong has recently established a Children's Commission. However, government refused calls by civil society and UN Committees to make it independent or hold investigative powers.

### *LGBTI rights*

- Hong Kong has taken no action to legislate to combat discrimination based on sexual orientation and gender identity.
- Transgender persons are required to complete sex-reassignment surgery to obtain legal recognition of their gender identity. There is no law to protect intersex children from non-consensual genital surgeries.

### *Women's rights*

- Criminal law regarding violence against women is outdated, using a definition of rape only covering penile penetration, excluding genitals reconstructed after sex reassignment surgery.
- There are insufficient policy and administrative measures supporting victims of sexual violence, within and between courts, hospital facilities and police.

### *Migrant worker rights*

- 380,000 workers under the Foreign Domestic Worker and Supplementary Labour Schemes are not considered ordinarily resident in Hong Kong. Migrant domestic workers are excluded from minimum wage protections.

### *Social security and adequate standard of living*

- Elderly poverty rates are more than double the overall poverty rate, with an increasingly ageing population. Social security safety nets are insufficient. The government has reserves of over US\$140 billion and recently had a budget surplus of over US\$17 billion.

### *Right to health*

- Health policies focus narrowly on the healthcare system without a city-wide strategy addressing structural barriers, excluding health impact assessments in policymaking.

### *Environmental rights*

- Air quality has never met WHO Air Quality Guidelines (WHAQGs). In 2016, there were 5 premature deaths per day because of air pollution.