

Speech delivered by Jake Mendrik, Policy Advisor, in the Legislative Council Panel on Constitutional Affairs Meeting on “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”

19 NOVEMBER 2018

Honourable members of the Legislative Council and representatives from the administration I address you as Policy Advisor of Justice Centre Hong Kong

Justice Centre feels that the responses by CMAB and other relevant bureaus to the Committee themes inadequately address a broken system in which stateless people and migrant workers are not offered the necessary human rights protections. Inaction could negatively impact upon Hong Kong's international reputation, and ultimately undermine its prosperity. Therefore, we will be making the following recommendations:

Firstly, Justice Centre recommends that Hong Kong establishes an identification mechanism for stateless persons and ensures that all stateless persons can access their fundamental human rights, including the right to reside in Hong Kong.

The current justification for this lack of adequate mechanism given in the government's response to theme 3 represents a misinterpretation of international law. While there may be overlap between stateless persons and unregistered and undocumented persons, this does not mean they are the same. There is however, a clear

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correlation between those suffering from forced migration and statelessness. Therefore, it is highly likely that there exists a substantial stateless population in Hong Kong seeking non-refoulement protection.

Furthermore, the Hong Kong government is required under the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women and 1954 Convention relating to the Status of Stateless Persons to respect the right of each individual to nationality and make positive steps to facilitate the naturalisation of stateless persons in accordance with the latter Convention's Article 32.

Secondly, Justice Centre is disappointed that migrant domestic workers are still subject to both the 'two-week rule' and live-in requirement. These policies heighten the risk of exploitation and human trafficking and should be repealed. We also note that on 6 November at the United Nations Universal Periodic Review hearing that the Philippines government recommended the enhancement of the inspection mechanism for monitoring the implementation of the Standard Employment Contract. Justice Centre, facilitators of the Hong Kong UPR Coalition, takes this opportunity to call upon the Hong Kong government to accept this recommendation.

Justice Centre also recommends that the Hong Kong government call upon the Central Authorities to accept the Indonesian government's UPR recommendation that Hong Kong considers ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. We note that in the Second Cycle UPR, Egypt, Ghana and Guatemala called upon China to "consider ratifying", which was duly accepted. However, no action has taken place in the last 5 years. We therefore call upon the Hong Kong

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government to take action locally to implement provisions of the convention.

Finally, we recommend the Hong Kong government grant the requisite standards of protection to asylum seekers and refugees. This includes ensuring their right to work, education for all children and access to permanent residency, consistent with rights granted to all other migrants under Article 24 of the Basic Law.

If the recent UPR process has revealed anything it is that the international community is increasingly concerned with the deterioration in rights protection in Hong Kong. The government's response to the CERD concluding observations provides an opportunity to help restore its reputation, benefitting the most marginalised in Hong Kong. Justice Centre looks forward to working collaboratively with government in helping to implement the CERD concluding observations.

Thank you.

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