



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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4 February 2019

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Dear Deputy Secretary Law,

### **HONG KONG UPR COALITION VIEWS ON UNIVERSAL PERIODIC REVIEW THIRD CYCLE OUTCOMES**

The Hong Kong UPR Coalition ('the Coalition'),<sup>1</sup> is pleased to provide its views regarding the outcomes of the United Nations Universal Periodic Review (UPR) process third cycle as it relates to the Hong Kong Special Administrative Region (HKSAR). This letter arises from a suggestion made by representatives of the Constitutional and Mainland Affairs Bureau (CMAB) at the Human Rights Forum meeting on 15 January 2019 to provide feedback prior to the on the UPR outcomes prior to the Lunar New Year holiday period.

This letter provides the Coalition's views following the UPR third cycle outcomes, with specific reference to:

- UPR consultation process;
- recommendations made by states;
- statements made by states;
- questions issued in advance.

The Coalition hopes that these views will be carefully considered by CMAB, as well as other representatives of the Administration, including relevant Secretaries and members of the Executive Council.

#### **UPR Consultation Process**

As the Coalition has previously outlined in its submission to CMAB's consultation on the UPR outline,<sup>2</sup> public engagement should be innovative and look beyond established practice. There are many suggestions that the Coalition has provided over the last 18 months for ways in which consultation could be improved. Several of these proposals could have a positive impact not just on the UPR, but also for the Administration's engagement with other treaty body processes and improving dialogue with civil society. For example, the suggestion to make

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<sup>1</sup> Further information on the Coalition, including submissions, fact sheets and media releases can be found at: <http://www.justicecentre.org.hk/policy-advocacy/universal-periodic-review/>.

<sup>2</sup> For example, Hong Kong UPR Coalition, 'Submission to the Hong Kong Constitutional and Mainland Affairs Bureau in response to its consultation', 7 May 2018, available at: <http://www.justicecentre.org.hk/framework/uploads/2018/03/Hong-Kong-UPR-Coalition-Submission-to-CMAB-for-UPR-Consultation.pdf>, accessed on 24 January 2019.



draft reports available for comment by civil society organisations, instead of providing outline documents, which limits transparency and accountability.<sup>3</sup>

Since 6 November 2018, the Coalition has sought to engage with the Administration in a constructive and collaborative manner. Just two days after the third cycle UPR hearing, on 8 November 2018, the Coalition wrote to Chief Secretary Matthew Cheung Kin-chung, expressing the Coalition's support for the UPR recommendations and proposing a meeting. It was disappointing then that on 22 November 2018 a response was received from Ms Jenny Szeto, Assistant Secretary, Chief Secretary for Administration's Office, stating that the Chief Secretary was unable to meet "owing to his hectic schedule". No letter was provided in response by the Chief Secretary nor was a time proposed by the Chief Secretary for Administration's Office when he would be available.

The Coalition sent a follow up letter on 29 November 2018 to the Chief Secretary requesting a meeting and expressing a willingness to fit in with the hectic schedule of the Secretary. Alternatively, the letter proposed meeting with the Secretary for Constitutional and Mainland Affairs if the Chief Secretary was not available. The Coalition was pleased that on 13 December 2018 an email response was received indicating that the Secretary for Constitutional and Mainland Affairs would be willing to meet with Coalition members. While there were scheduling challenges to hold the meeting in December 2018 and January 2019, the Coalition appreciates and looks forward to the forthcoming meeting with the Secretary on 11 February 2019.

The Coalition has also sought to actively engage at a working-level with staff from CMAB. On 7 December 2018, an email was sent to CMAB proposing a joint government-civil society meeting to discuss the UPR outcomes, given the critical role of principal officials in the Administration regarding implementation. A follow up email was sent on 20 December 2018, with a response from CMAB received later that day. The response from CMAB suggested that it would be easier to discuss UPR at the Human Rights Forum meeting on 15 January 2019 designed to cover the outline of the topics in the fourth report under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). The Coalition's concerns with this approach were made known to CMAB in emails on 21 December 2018, 8 January 2019 and 9 January 2019. Those concerns included; the lack of availability of members, the different subject matters covered in an ICESCR meeting compared to UPR and the need for more time for face to face consultation, emphasising the importance of having a stand alone meeting to increase inclusiveness, transparency and accountability.

Despite the above concerns and the flexibility expressed by the Coalition for meeting, including nomination of several dates and times, CMAB offered to address UPR for 30 minutes at the Human Rights Forum meeting on 15 January 2019. The Coalition expressed concerns that this was insufficient time. As a result, at the Human Rights Forum only a handful of members could attend, despite more wanting to join. At the Forum itself, concerns were raised with the UPR outcomes consultation process, including the failure to provide specific information about timeframes for the Administration in responding to the Central Authorities.

Beyond the refusal to hold a separate standalone meeting to discuss UPR with the Coalition and civil society, the Coalition is concerned that there has not been broader public consultation on the UPR outcomes. Given that in the third cycle a record number of countries put forward recommendations, made questions in advance and statements referring to Hong Kong, it is disappointing that CMAB did not proactively seek public input. This could have taken many

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<sup>3</sup> Ibid.



different forms, including an announcement through press release, notifications on the website, directly emailing civil society organisations and more.

The Coalition is also disappointed with the reticence shown by the Administration to appear before the Legislative Council Panel on Constitutional Affairs to discuss the UPR outcomes.<sup>4</sup> On 3 January 2019, 24 Legislative Council members wrote to the Hon. Horace Cheung Kwok-kwan, Chairman of the Panel, to request that the Panel consider the UPR recommendations with the presence of representatives of the Hong Kong Government in advance of the plenary session in mid-March. In a written response dated 15 January 2019, the Secretary stated that the Administration's position on the UPR recommendations will be formally presented to the Panel in April 2019 after the plenary session. This means that the ultimate decision of the Administration to "accept" or "note" the UPR recommendations will have been insulated from prior public comment.

While there have been some positive developments over recent months, such as the meeting with the Secretary for Constitutional and Mainland Affairs, the Coalition has been disappointed that the approach to consultation post the UPR outcomes has largely followed a similar format to that undertaken previously and adhered to "established practice". This has been despite the efforts of the Coalition and Legislative Council members to ensure that the Administration's response is more transparent and accountable. Unfortunately, the Coalition has not discerned substantive changes in the Administration's engagement with civil society throughout the third cycle UPR, even with pledges from the Chief Executive Lam to 'connect' and work more closely with civil society.<sup>5</sup>

### **UPR Recommendations**

The Coalition notes that in a first and unprecedented step there were six recommendations. In the second cycle not one recommendation was issued on Hong Kong. This result sends a strong signal to the HKSAR government that substantial policy, legislative and administrative changes should be undertaken to enhance the protection of fundamental rights. Failure to do so will only undermine the core values which have made Hong Kong successful and threaten future prosperity.

The Coalition supports the acceptance of all recommendations. The Coalition is willing to work closely with the Administration and the international community to implement policy, legislation and administrative measures to uphold commitments made in acceptance of each recommendation.

### **Australia**

*Uphold the rights, freedoms and rule of law embodied in the one country, two systems framework for Hong Kong*

The Coalition recommends that the Administration accept Australia's recommendation.

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<sup>4</sup> Hong Kong UPR Coalition, Statement, 1 February 2019, available at: <https://www.facebook.com/HongKongUPR/>.

<sup>5</sup> Chief Executive Carrie Lam, 'The Chief Executive's 2017 Policy Address: We Connect for Hope and Happiness', October 2017, available at: <https://www.policyaddress.gov.hk/2017/eng/pdf/PA2017.pdf>, accessed on 24 January 2019.



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This recommendation links directly to a central talking point of the HKSAR government and is consistently referenced by senior officials. For example, the Chief Executive said in her 2018 Policy Address speech that:

*“I solemnly pledged in my first Policy Address that the Hong Kong Special Administrative Region (HKSAR) Government and myself will, with our utmost endeavours, implement the “One Country, Two Systems” principle, uphold the Basic Law and safeguard the rule of law; and good governance is the cornerstone for discharging the above constitutional responsibilities.”<sup>6</sup>*

Meanwhile, the Chief Secretary stated in his response at the United Nations Human Rights Council that:

*“The rule of law, an independent judiciary and freedom of speech are amongst Hong Kong’s core values.”<sup>7</sup>*

Given that this recommendation is central to the identity, character and values of the HKSAR, it would cause substantial international concern if it was only noted rather than accepted.

## Canada

*Ensure the right of Hong Kong people to take part in government, without distinction of any kind*

The Coalition recommends that the Administration accept Canada’s recommendation.

This recommendation relates to concerns raised with the disqualification of candidates standing for election, who have been screened based on their political beliefs. The Coalition is deeply concerned that more than a dozen have been disqualified on this basis in contravention of Article 25 of the International Covenant on Civil and Political Rights. Given these concerns, the Coalition recommended in its submission to the Human Rights Council that:

*“HKSAR should legislate to protect the rights of all persons to stand for election, regardless of their political affiliation or political beliefs, within one year. HKSAR should ensure that decisions by returning officers are made in accordance with ICCPR, especially the right to participate in public affairs.”<sup>8</sup>*

The Administration has consistently stated that there are no instances of political screening in Hong Kong. For example, in response to a speech from former Chief Secretary, Mrs Anson Chan, outlining that the decision to bar candidates in the March 2018 by-election looked like

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<sup>6</sup> Chief Executive Carrie Lam, ‘The Chief Executive’s 2018 Policy Address: Striving Ahead Rekindling Hope’, October 2018, available at: <https://www.policyaddress.gov.hk/2018/eng/pdf/PA2018.pdf> at p3, accessed on 24 January 2019.

<sup>7</sup> Government of the Hong Kong Special Administrative Region, ‘Response by CS and UNHRC Universal Periodic Review meeting’, 6 November 2018, available at: <https://www.info.gov.hk/gia/general/201811/06/P2018110600982.htm>. Accessed on 24 January 2019.

<sup>8</sup> Hong Kong UPR Coalition, ‘Joint Civil Society Submission from the Hong Kong UPR Coalition’, March 2018. Available at: [http://www.justicecentre.org.hk/framework/uploads/2018/UPR/HKUPRC\\_Submission\\_MARCH2018.pdf](http://www.justicecentre.org.hk/framework/uploads/2018/UPR/HKUPRC_Submission_MARCH2018.pdf).



“*naked political screening of a pro-democracy candidate*”,<sup>9</sup> a HKSAR government spokesperson said:

*“The HKSAR Government all along respects and safeguards the rights enjoyed by Hong Kong residents according to law, including the aforesaid rights to vote and to stand for election.”*

*“Decisions of the Returning Officers are made in accordance with the law and are aimed to ensure that elections are held in strict accordance with the Basic Law and other applicable laws in an open, honest and fair manner. There is no question of any political censorship or restriction of the right to stand for elections as alleged by Mrs Chan.”<sup>10</sup>*

Given that the Administration is of the view that there has not been any political censorship or restriction in the right to stand for elections and has outlined a strong commitment to such rights in public statements, it would be of concern if the recommendation from Canada was not accepted. Only noting the recommendation would call into question commitments by the HKSAR government to respect and safeguard the right to vote and the right for residents to stand for election.

## Croatia

*That the Hong Kong Special Administrative Region introduce internal legislation to implement the Convention on the Rights of the Child*

The Coalition recommends that the Administration accept Croatia’s recommendation.

The *Convention on the Rights of the Child* (CRC) came into force in Hong Kong in 1994 and it continues to apply after the establishment of the HKSAR. Despite this, substantial legislative gaps remain, with many Articles of the CRC still not given effect. The Coalition in its submission to the Human Rights Council recommended:

*“HKSAR should legislate to domestically implement the CRC, particularly Article 3 to consider the best interests of the child in all statutory and administrative decision-making, and Article 12 to ensure the views of children are expressed and heard, within three years.”<sup>11</sup>*

Every treaty which applies to the HKSAR is binding and must be performed in good faith.<sup>12</sup> Human rights treaties, such as the CRC, set out in clear terms the HKSAR’s international human rights obligations, which the HKSAR is bound to comply with and implement. Further, internal laws cannot be used to justify a failure to perform a treaty.<sup>13</sup>

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<sup>9</sup> Hong Kong Free Press, ‘Hong Kong gov’t hits back at ex-chief sec. Anson Chan’s claim of election candidate ‘political screening’’, 12 February 2018, available at: <https://www.hongkongfp.com/2018/02/12/hong-kong-govt-hits-back-ex-chief-sec-anson-chans-claim-election-candidate-political-screening/>. Accessed on 24 January 2019.

<sup>10</sup> Government of the Hong Kong Special Administrative Region, ‘HKSARG responds to Anson Chan’s remarks’, 11 February 2018, available at: <https://www.info.gov.hk/gia/general/201802/11/P2018021100920.htm>.

<sup>11</sup> Ibid n8.

<sup>12</sup> Article 26 of the *Vienna Convention on the Law on the Law of Treaties*.

<sup>13</sup> Article 27 of the *Vienna Convention on the Law on the Law of Treaties*.



The Chief Executive has paid greater attention to children's rights issues in recent years as exemplified in her Policy Address 2017 and 2018. This has included the development of the Commission on Children, measures to enhance child care services and the establishment of co-parenting support centres. Notably the Chief Executive said in the Policy Address 2018 that she was "*deeply concerned about the healthy growth of children, both physical and psychological*".<sup>14</sup> Taking the step to legislate to domestically implement the CRC in Hong Kong would reflect those values.

Given the Administration's international legal obligations under the CRC, the gaps in the domestic legislative framework and the strong attention on children's rights by the Chief Executive, acceptance of Croatia's recommendation would send a positive message to the international community.

## France

*Guarantee freedom of expression, assembly and association including in Hong Kong, and to remove obstacles to freedom of information on the internet, in particular for human rights defenders*

The Coalition recommends that the Administration accept France's recommendation.

The Coalition notes that in public commentary, senior officials have consistently emphasised the importance of protecting freedom of expression, assembly and association, indicating that such rights are already protected and are core values. For example, Chief Executive Lam stated in her 2018 Policy Address in October 2018, that:

*"Hong Kong has maintained its unique strengths which are protected by the Basic Law, including the rule of law, executive power, legislative power, independent judicial power including that of final adjudication, human rights and freedom, etc"*<sup>15</sup>

In another example, Chief Executive Lam stated in response to a reporter's question in Japan on 1 November on concerns regarding freedom of expression that:

*"...I told you clear and loud that there should be no such worries and concerns, because the rule of law is as alive as ever and we respect all the freedoms and rights enjoyed by the Hong Kong people as well as people coming to work and study in Hong Kong."*<sup>16</sup>

Meanwhile, Chief Secretary Cheung stated at the UPR hearing on 6 November 2018, that:

*Any concerns that Hong Kong's freedom of speech and of the press is under threat are totally groundless.*<sup>17</sup>

If the Chief Executive and Chief Secretary so firmly believe that there are no concerns regarding fundamental freedoms, such as expression, assembly and association, then the

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<sup>14</sup> Ibid n6 at p69.

<sup>15</sup> Ibid n6.

<sup>16</sup> Government of the Hong Kong Special Administrative Region, 'Transcript of remarks by CE at media session in Japan (with photo/video)', 1 November 2018, available at:

<https://www.info.gov.hk/gia/general/201811/01/P2018110100702.htm>.

<sup>17</sup> Ibid n7.



recommendation should be accepted. In the event that France's recommendation was only noted, it would call into question the Administration's commitment to human rights and willingness to guarantee freedom of expression, assembly, association and protection of human rights defenders.

## Indonesia

*Encourage China, including Hong Kong and Macao Special Administrative Regions (SAR), to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

The Coalition recommends that the Administration accept Indonesia's recommendation.

The Coalition notes that the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) was recommended in the second cycle by Egypt, Ghana and Guatemala.<sup>18</sup> In each case, the recommendations were supported by the People's Republic of China (PRC). Given that similar recommendations to Indonesia were accepted during the second cycle by the PRC government, it would be conspicuous if the HKSAR deviated from that practice and only suggested noting the recommendation from Indonesia.

While the Coalition notes that a final decision to ratify the ICRMW will need to be made by the PRC government, we would strongly encourage the HKSAR government to do so. At a time when the Labour and Welfare Secretary has admitted the need for 600,000 migrant domestic workers within the next 30 years,<sup>19</sup> any action that can be taken in the coming years to increase the attractiveness of the HKSAR as a destination would be advantageous. Ratification and extension of the ICRMW would be an asset for Hong Kong with an increasingly competitive market place for migrant workers, especially among developed economies with ageing populations in the region.

## Philippines

*Enhance monitoring of the implementation of the Standard Employment Contract, particularly for migrant domestic workers in Hong Kong*

The Coalition recommends that the Administration accept the Philippines' recommendation.

As noted above, creating an attractive environment for migrant workers is particularly important with the projected demand in the coming years with Hong Kong's increasingly ageing population. NGOs have long expressed concerns with monitoring of the Standard Employment contract, in light of their living and working conditions for migrant domestic workers. For example, research from Justice Centre Hong Kong found that 17% of migrant domestic workers were in a situation of forced labour and 14% of those were trafficking for

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<sup>18</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review, A/HRC/25/5, 4 December 2013.

<sup>19</sup> South China Morning Post, 'Hong Kong will need 600,000 domestic helpers in next 30 years amid demand for elderly care, labour chief says', 20 July 2018, available at: <https://beta.scmp.com/news/hong-kong/community/article/2118462/hong-kong-will-need-600000-domestic-helpers-next-30-years>. Accessed on 24 January 2019.



such a purpose.<sup>20</sup> Such matters have also consistently been raised by United Nations human rights treaty bodies.<sup>21</sup>

The Coalition's submission made the following recommendation:

*Consistent with concluding observations of HRC, CESCR, CERD, CEDAW and CAT, HKSAR should... (iii) increase resources for the Labour Department to establish an inspection mechanism for monitoring the implementation of the Standard Employment Contract and ensure, inter alia, a decent standard of living for migrant domestic workers...<sup>22</sup>*

The Coalition strongly encourages the HKSAR government to accept this recommendation and work collaboratively with NGOs, migrant domestic sending countries and the broader community to help put in place administrative, policy and legislative measures that would enhance monitoring of the Standard Employment Contract. This would help to positively improve the international image of the Hong Kong, making Hong Kong a more attractive destination for migrant domestic workers, while upholding fundamental human rights.

## **Statements covering Hong Kong**

### **Ireland**

*Ireland continues to urge China, including Hong Kong and Macao, to establish a comprehensive anti-discrimination law to protect all marginalised groups, including LGBTI persons*

The Coalition urges the HKSAR government to formally respond to the statement from Ireland at the upcoming UPR plenary session. The Coalition raised concerns regarding the lack of protection in anti-discrimination laws in its submission:

*“Consistent with concluding observations of CESCR, HKSAR should adopt comprehensive anti-discrimination legislation within two years. Such legislation should establish a public sector duty to promote equality.”<sup>23</sup>*

With respect to LGBTI persons, the Coalition recommended:

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<sup>20</sup> Justice Centre Hong Kong, 'Coming Clean: The Prevalence of Forced Labour and Human Trafficking for the Purpose of Forced Labour Amongst Migrant Domestic Workers in Hong Kong', 2016, available at: <http://www.justicecentre.org.hk/comingclean/>.

<sup>21</sup> Human Rights Committee, Concluding observations on the third periodic report of Hong Kong, China, CCPR/C/CHNHKG/CO/3, Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, E/C.12/CHN/CO/2, Committee on the Elimination of Racial Discrimination, Concluding observations, Consideration of reports submitted by China (including Hong Kong and Macau Special Administrative Regions) under Article 9 of the Convention, CERD/C/CHN/CO/10-13, and Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8 and Committee against Torture, Concluding observations on the fifth periodic report of China with respect to HKSAR, China, CAT/C/CHN-HKG/CO/5.

<sup>22</sup> Ibid n8.

<sup>23</sup> Ibid.



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*HKSAR should adopt legislation prohibiting discrimination on grounds of sexual orientation, gender identity, gender expression and sex characteristics in all public and private sectors and providing positive duties on the part of the Government to promote equality on these grounds within one year.*<sup>24</sup>

Finally, in respect of racial minorities, the Coalition recommended:

*“Consistent with HRC, CESCR and CERD concluding observations, HKSAR should amend the Race Discrimination Ordinance within one year so that it applies to Government functions and powers, and covers the grounds of nationality, citizenship, residence status, and language.”*<sup>25</sup>

Given that concerns with gaps in Hong Kong’s anti-discrimination laws have been raised consistently by treaty bodies and now a foreign government in the UPR process, the Coalition urges the Administration to formally respond to Ireland’s statement during the upcoming plenary session in mid-March 2019. The plenary session provides a valuable opportunity to speak to an international audience and identify positive legislative measures that would be undertaken to protect marginalised sectors of Hong Kong society. Responding in such a forum would also send a strong signal to foreign governments about the HKSAR’s commitment towards being ‘Asia’s World City’ and support for, in the words of the Chief Secretary, building a city that is open, inclusive and diverse.<sup>26</sup>

## United Kingdom

*We urge China to respect the rights and freedoms guaranteed by the Sino-British Joint Declaration in Hong Kong*

The Coalition urges the HKSAR government to respond to the statement from the United Kingdom at the upcoming UPR plenary session with regards to the application of rights and freedoms guaranteed by the Sino-British Joint Declaration (‘the Joint Declaration’) in Hong Kong. The Coalition is concerned by comments from the Central Authorities that suggest the Joint Declaration is “*a historical document that no longer had any practical significance*”.<sup>27</sup> The Joint Declaration remains a legally binding document which covers the protection and promotion of human rights in the HKSAR.

The Coalition is troubled with the Administration’s approach towards referring to non-interference when human rights concerns are raised by foreign governments, including in situations applicable to the Joint Declaration.<sup>28</sup> Human rights are universal, indivisible, interdependent and interrelated. Article 2(7) of the Charter of the United Nations, resolutions 25/2625 and 36/103 of the General Assembly, which have been cited in justifying the use of the non-interference principle by the HKSAR, are primarily concerned with the threat of force,

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid n7.

<sup>27</sup> Hong Kong UPR Coalition, Submission to the United Kingdom Joint Committee on Human Rights Human Rights Protections in International Agreements inquiry, ‘Written submission from the Hong Kong UPR Coalition’, 23 January 2019. Available at:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/human-rights-protections-in-international-agreements/written/94919.html>.

<sup>28</sup> Government of the Hong Kong Special Administrative Region, Press Release, ‘Government of the Hong Kong Special Administrative Region’, 17 December 2014. Available at: <https://www.info.gov.hk/gia/general/201412/17/P201412170731.htm>.



aggression and military intervention.<sup>29</sup> Non-interference as a principle of international law is not applicable when concerns are raised with respect to breaches of international human rights law.

Given concerns with the human rights environment in Hong Kong, as shown by the record response in the UPR third cycle, providing clarification on the Administration's engagement in respect of the Joint Declaration would greatly increase international confidence in the Administration's ability to protect and promote human rights in the HKSAR.

### **Questions in Advance**

The Coalition notes that for the first time there were four questions in advance raised by foreign governments prior to the UPR hearing. This was a valuable opportunity for the Administration to respond to human rights concerns by United Nations member states.

At the 6 November 2018 hearing, the Chief Secretary was provided with an opportunity to address each of the questions. However, given that he did not outline which comments were in response to each question it is difficult to discern what those responses were.

At the Human Rights Forum meeting on 15 January 2019, representatives from the Coalition queried whether the questions were considered to have been answered. Officials from CMAB advised that the Chief Secretary tried to respond to the questions. However, it is the view of the Coalition that the questions have not adequately been answered or not answered at all.

### **Netherlands**

*To the government of the Hong Kong Special Administrative Region: which steps does Hong Kong intend to take to address international concerns about press freedom in Hong Kong and to ensure a safe and enabling environment for journalists to carry out their work independently and without undue interference?*

In response to concerns about press freedom, the Chief Secretary stated:

*"We are firmly committed to protecting press freedom. We do not exercise any censorship. On a recent work visa extension case, we will not comment on any specific decision on our immigration control. All such decisions are made by our immigration authorities under the laws and prevailing policies, having regard to individual circumstances of each case. Any concerns that Hong Kong's freedom of speech and of the press is under threat are totally groundless. On the contrary, we maintain an environment conducive to the operation of a free and active press. Some 80 foreign media organisations operate in Hong Kong and rigorously perform their role as a watchdog."<sup>30</sup>*

The Chief Secretary's response was disappointing as he failed to answer the question. The Netherlands asked *what steps* were to be taken to address international concerns. However, the Chief Secretary did not outline any steps that would be taken. The Chief Secretary did not provide information as to what actions would be taken to ensure a safe and enabling environment for journalists to carry out their work independently and without undue interference.

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<sup>29</sup> Ibid.

<sup>30</sup> Ibid n7.



Concerns with press freedom not “*totally groundless*” as the Chief Secretary asserts. As noted in the Coalition’s submission to the Human Rights Council,<sup>31</sup> there has been a decrease in press freedom, which has been noted by the Hong Kong Journalists Association and reporters Without Borders.<sup>32</sup> Journalists and other media workers, often supporters of democracy and expressing critical views, have been attacked<sup>33</sup> and threatened.<sup>34</sup>

## United States of America

*What is China’s response to growing international concern about Beijing’s continued encroachment on Hong Kong’s autonomy, the abduction of individuals from Hong Kong, and growing restrictions on the freedoms of expression, association, and political participation in Hong Kong?*

In response to the above concerns raised by the United States of America on several issues, the Chief Secretary may have also referred to the comments quoted above with respect to freedom of expression, association and political participation. Alternatively, given that the question was directed to the PRC, rather than Hong Kong, the Chief Secretary may have considered the response not necessary to answer. Unfortunately, without further clarification it is difficult to determine.

Regarding autonomy the Chief Secretary stated that:

*“Under “one country, two systems”, Hong Kong enjoys a high degree of autonomy. Fundamental rights and freedoms are all guaranteed by the Basic Law.”<sup>35</sup>*

However, beyond the above statement no information was provided to address international concerns about increasing encroachment on Hong Kong’s autonomy. For example, the Chief Secretary could have noted what steps might be taken to alleviate such concerns.

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<sup>31</sup> Ibid n8.

<sup>32</sup> Hong Kong Journalists Association, ‘2018 Annual Report: Candle in the wind – National Security law looms over diminishing freedoms’, available at: [https://www.hkja.org.hk/ebook/e\\_Annual\\_report\\_2018/mobile/index.html#p=1](https://www.hkja.org.hk/ebook/e_Annual_report_2018/mobile/index.html#p=1), accessed on 25 January 2019. Reporters Without Borders, ‘Hong Kong’, available at: <https://rsf.org/en/hong-kong>, accessed 25 January 2019.

<sup>33</sup> Danny Mok, Clifford Lo and Tony Cheung, ‘Firebombs hurled at home of Hong Kong media tycoon Jimmy Lai were “attack on press freedom”’, South China Morning Post, 12 January 2015, available at: <https://beta.scmp.com/news/hong-kong/article/1678573/firebombs-hurled-jimmy-lai-home-and-next-media-headquarters>. Accessed 25 January 2019. Julie Chu and Eddie Lee, ‘Hong Kong journalist Kevin Lau demands hunt for mastermind behind attack as pair are convicted of knifing him’, South China Morning Post, 13 August 2015, available at: <http://www.scmp.com/news/hongkong/law-crime/article/1849189/jury-sent-deliberate-guilt-two-men-accused-knife-attack>. Accessed 23 February 2018.

<sup>34</sup> Hong Kong Free Press, ‘Police launch investigation after threatening letters sent to Hong Kong Free Press staff’, Hong Kong Free Press, 4 October 2017, available at: <https://www.hongkongfp.com/2017/10/04/police-launch-investigation-threatening-letters-sent-hong-kong-free-press-staff/>, accessed on 25 January 2019.

<sup>35</sup> Ibid n7.



## Germany

*How do the interpretations of the Hong Kong laws by the NPCSC ensure that freedom of press and opinion are upheld in consistence with the provisions under the Basic Law and the HKSAR Bill of Rights?*

In response to concerns regarding the interpretations, the Chief Secretary stated:

*On interpretation of the Basic Law, the Standing Committee of the National People's Congress (the Standing Committee) has the ultimate authority to do so under Article 158 of the Basic Law. This is part of our constitutional order. Our Court of Final Appeal agrees that the Standing Committee's interpretation is valid and binding on our courts.<sup>36</sup>*

Again, the Chief Secretary did not answer the question. The response refers to the position under Article 158 of the Basic Law. It makes no mention of a review or monitoring process by the HKSAR judiciary or other process to ensure that fundamental freedoms are upheld. As the Coalition recommended in its submission:

*Following an NPCSC interpretation, HKSAR should, within six months, publish a report on whether the interpretation is procedurally and substantively compatible with human rights provisions of the Basic Law and HKSAR Bill of Rights. If the view is that the interpretation is not compatible, the report should state the effect of the interpretation and measures to ensure compatibility.*

There are measures which the HKSAR government could take to increase international confidence in the rule of law in cases where NPCSC interpretations are made. The failure to identify and investigate such measures or respond to the proposal from the Hong Kong UPR Coalition is disappointing given the opportunity provided in a public international setting.

## Switzerland

*Former High Commissioner expressed his concerns regarding the disappearance of booksellers in Hong Kong, including Swedish citizen Gui Minhai. What is his current status and will there be a public and independent investigation into the circumstances regarding the disappearance of booksellers?*

In response to concerns regarding the abduction of booksellers, the Chief Secretary stated:

*"On speculations of authorities of other jurisdictions taking law enforcement actions in Hong Kong, our Police have investigated and found no evidence in support of such claims."<sup>37</sup>*

The Chief Secretary did not answer the question from Switzerland. He did not provide information on the status of Gui Minhai, nor did he Chief Secretary answer whether there would be a public and independent investigation into the circumstances regarding the disappearance of booksellers. The ongoing refusal to commit to a public and independent investigation is despite consistent and longstanding calls from civil society organisations,

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid.



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

including the Hong Kong UPR Coalition.<sup>38</sup> The continual refusal also serves to reduce the confidence among the international community in "one country, two systems" and the HKSAR's commitment to uphold the rule of law and the Basic Law.

The Coalition would welcome an opportunity to expand on any of the above matters. We are willing to work closely with the Administration and the international community to implement policy, legislation and administrative measures made in response to any of the recommendations, statements or questions in advance.

Yours sincerely

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<sup>38</sup> Ibid n8.