

# UPR Info Pre-Session Human Rights in Hong Kong



9 October 2018

# Human Rights in Hong Kong

- In the Second UPR Cycle there were no recommendations mentioning Hong Kong.
- Since 2013, the human rights and rule of law environment has deteriorated. Core values are being eroded. Civil society space is narrowing and government transparency has decreased.

# Hong Kong Recommendations - Legislative Frameworks/Human Rights Defenders

- Legislative and institutional framework:
  - Hong Kong Special Administrative Region (HKSAR) should adopt a comprehensive human rights ordinance to incorporate all international human rights treaties that apply to HKSAR in domestic legislation within two years
  - HKSAR should adopt comprehensive anti-discrimination legislation within two years. Such legislation should establish a public sector duty to promote equality.
- Human rights defenders:
  - HKSAR should immediately enable all political parties to register, ensuring their rights to take part in the conduct of public affairs are upheld.
  - HKSAR should introduce a clear statutory definition of what constitutes a charitable purpose, protecting human rights NGOs, in accordance with recommendations from the Law Reform Commission, within two years.

# Hong Kong Recommendations – Freedom of Expression/Access to Information

- Freedom of expression:
  - HKSAR should take all necessary efforts to ensure a safe and enabling environment for journalists to carry out their work independently and without undue interference.
  - HKSAR should immediately remove the Chief Executive as ex officio chancellor of tertiary institutions.
  - HKSAR should immediately undertake an independent and public investigation into the circumstances regarding the detention and abduction of the Causeway Bay booksellers.
- Access to information:
  - HKSAR should adopt a Freedom of Information Ordinance that establishes maximum disclosure and minimal exemption requirements, within one year.
  - HKSAR should adopt an Archives Ordinance, incorporating mandatory public sector compliance and penalties for non-compliance, destruction of records and denial of access, within one year.

# Hong Kong Recommendations – Rule of Law/Universal Suffrage

- Rule of law:
  - 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.
- Universal suffrage:
  - HKSAR should outline clear and detailed plans, with a timetable on how universal and equal suffrage will be instituted and enjoyed by all citizens, within one year.
  - HKSAR should immediately abolish all functional constituencies in the Legislative Council, replacing all positions with directly elected candidates.
  - 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.

# Hong Kong Recommendations – Peaceful Assembly/Anti-Discrimination

- Peaceful assembly:
  - HKSAR should abolish provisions in Part III of the Public Order Ordinance relating to notification of public meetings within one year.
  - HKSAR should amend the Public Order Ordinance, in particular s17B on disorder in public places and s18 on unlawful assembly, ensuring consistency with ICCPR, within two years.
  - HKSAR should remove the responsibilities of the Secretary of Justice to decide criminal prosecutions within one year.
- Anti-discrimination:
  - HKSAR should HKSAR should amend the Racial 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.

# Hong Kong Recommendations – Asylum Seekers and Refugees/Human Trafficking

- Asylum seekers and refugees:
  - HKSAR should not set an inappropriate high threshold for granting international protection and should grant asylum seekers and refugees the right to work immediately.
  - HKSAR should amend legislation to provide equal rights to access permanent residency for children of asylum seekers, refugees and all migrant workers, consistent with the children of other migrants under Article 24 of the Basic Law, within one year.
- Human trafficking:
  - HKSAR should adopt a comprehensive law on prevention, prosecution, and protection to combat human trafficking and forced labour, within one year.
  - China should extend the Palermo Protocol to HKSAR within one year.

# Hong Kong Recommendations – Disability Rights and Children’s Rights

- Disability rights:
  - HKSAR should amend the Mental Health Ordinance to:
    - (i) recognise that all persons have legal capacity;
    - (ii) recognise the need of support for decision making instead of categorising persons in such need as mentally incapacitated persons; and
    - (iii) allow for third party advocates to assist, within one year.
  - HKSAR should include a distinct duty to make reasonable accommodation for persons with disabilities in all relevant fields in its legislation, including employment and education within one year.
- Children’s Rights:
  - HKSAR should establish an independent and statutory Children’s Commission with investigative powers that comply with the CRC and the Paris Principles within three years.
  - HKSAR should establish a central data bank with independent data and assess progress of the implementation of the Convention on the Rights of the Child on the basis of such data, within one year.

# Hong Kong Recommendations – LGBTI Rights and Women's Rights

- LGBTI Rights
  - HKSAR should adopt legislation prohibiting discrimination on grounds of sexual orientation, gender identity, gender expression, and sex characteristics, in all public and private sectors, within one year.
  - HKSAR should take all necessary legislative, administrative, and other measures to remove preconditions for legal recognition of gender identity for transgender and intersex persons, within one year.
- Women's Rights:
  - HKSAR should adopt proposals by the Law Reform Commission revising sexual offenses legislation, including those against transgender persons, children and persons with disabilities, in line with international best practices and standards within two years.
  - HKSAR should increase maternity leave periods in line with International Labour Organization standards within one year.
  - HKSAR should increase paternity leave to 7 days or more within one year.

# Hong Kong Recommendations – Migrant Domestic Worker Rights and Social Security Rights

- Migrant Domestic Worker Rights:
  - HKSAR should;
    - (i) repeal the ‘two-week rule’ and the live-in requirement;
    - (ii) adopt a comprehensive law to ensure migrant domestic workers enjoy the same conditions as other workers;
    - (iii) increase resources for the Labour Department to establish an inspection mechanism for monitoring the implementation of the Standard Employment Contract; and
    - (iv) strengthen protection from abuse by recruitment agencies immediately.
  - HKSAR should amend legislation to provide equal rights to access permanent residency for all migrant workers, consistent with other migrants under Article 24 of the Basic Law, within one year.
- Social Security Rights:
  - HKSAR should introduce a universal pension scheme to support persons above 65 within 3 years.

# Hong Kong Recommendations – Housing Rights, Health and Environment Rights

- Housing
  - HKSAR should reintroduce rent control to increase rental affordability within one year.
- Right to Health:
  - HKSAR should immediately adopt the “Health in All Policies” framework of the World Health Organization (WHO) in policymaking to incorporate health impact assessments across all sectors and levels of government.
- Environment:
  - HKSAR should amend the Air Pollution Control Ordinance to set Air Quality Objectives (AQOs) that are no less stringent than those in the WHO AQOs and make all relevant bureaus accountable for non-compliance with AQOs within one year.

# Thank you

- From the 45 civil society members of our Coalition, plus many more who for fear of reprisal did not endorse, but actively contributed to the process.
- Civil society organisations who are publicly members include:
  - AIDS Concern, Asia Pacific Refugee Rights Network, Association Concerning Sexual Violence Against Women, Association for Transgender Rights, Beyond the Boundary-Knowing and Concerns Intersex, Chosen Power (People First Hong Kong), Civil Human Rights Front, Disabilities CV, Dompot Dhuafa Hong Kong, Gay Harmony, Health In Action, HELP for Domestic Workers, Hong Kong Association of Woman Social Workers, Hong Kong Coalition for Rights of Persons with Disabilities, Hong Kong Committee on Children's Rights, Hong Kong Deaf Empowerment, Hong Kong Federation of Asian Domestic Workers Unions, Hong Kong Green Drinks, Hong Kong Islamic Youth Association, Hong Kong Journalists Association, Hong Kong Unison, Hong Kong Watch, International Domestic Workers Federation, Justice Centre Hong Kong, Keyboard Frontline, Les Corner Empowerment Association, Liberty Asia, Living Islands Movement, Living Seas Hong Kong, Made in Gender, Network for Women in Politics, Open Data Hong Kong, PEN Hong Kong, Pink Alliance, Planet Ally, Playright Children's Play Association, Pride Lab, Progressive Lawyers Group, Rainbow Action, The Foreign Correspondents' Club, Hong Kong, The Green Earth, The Hong Kong Society for Asylum-Seekers and Refugees, The Nesbitt Centre, The Zubin Foundation and Transgender Resource Centre.