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香港特別行政區立法會
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致保安事務委員會主席及委員

就特區政府及警察處理抗議世貿示威活動的部署、 拘捕及羈留行動的報告

這份由民間監察世貿聯盟及亞洲人權委員會共同撰寫的報告，主要目的在於披露有關特區政府數個部門——尤以香港警察為甚——在處理抗議世貿示威時侵犯本地及海外示威者以至一般市民的人權的情況。另一方面，香港警方提交立法會保安事務委員會有關世貿會議的保安操施的報告實過於簡陋粗略，本會關注保安事務委員會可能會因資料不足，未能對特區政府及警方對是次事件的安排操施作出有效監察，本會希望這報告能保不足。

本會亦藉此報告要求香港特區政府及立法會就警方於 12 月 17、18 日期間應付示威者的行動，作出獨立的深入調查。並向公眾交調查結果。

本會正聯同亞洲人權委員會、人權監察及國際特赦協會搜集及整理有關特區政府及警察處理抗議世貿示威活動的部署、拘捕及羈留行動時的侵權投訴。本會及其他參與是項調查報告的團體歡迎保安事務委員會與我本人（27708668）或區美寶聯絡。

民間監察世貿聯盟
主席 鄧燕娥

二零零六年二月六日

副本致：

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Briefing Report on Policing, Arrests and Detentions Regarding the WTO Protests

**Hong Kong People's Alliance on WTO
Asian Human Rights Commission**

I. INTRODUCTION

This is a briefing report submitted to the Security Panel of the Hong Kong Legislative Council (Legco) on 7 February. The report was developed by the Hong Kong People's Alliance on WTO (HKPA) and Asian Human Rights Commission (AHRC). The main concern of the report is on human rights violations committed against local and overseas protestors by various government departments, particularly the Hong Kong police force.

First of all, the report explains how the hostile attitude and actions of the Hong Kong police that restricted the right to assembly provoked tensions with protestors throughout 2005, particularly during the People's Action Week in December during the sixth ministerial conference of the World Trade Organisation (WTO). The report also seeks to provide important information regarding the problematic closure of the Wan Chai area on the evening of 17 December that almost served as a pretext to stop demonstrators from protesting on the final day of the WTO conference on 18 December. The report would like to challenge the decision of the arrest of more than 1,000 people who experienced serious human rights violations during the "round-up" of protestors on Gloucester Road for more than 10 hours as well as problems related to their transport to police stations and their groundless detention. Lastly, we demand that the Legco Security Panel raise our concerns with the Security Bureau and the police and that Legco initiate an independent inquiry into the police's actions against the WTO protesters on December 17-18.

II. POLICING BEFORE AND DURING THE WTO SESSION

1. Restrictions on the Right to Assembly

a. Delay of Approval on Venue Request for People's Action Week

Since March 2005, HKPA initiated meetings with the police regarding arrangements for activities and actions. A series of formal and informal meetings ensued thereafter. It was only in October after HKPA exerted pressure, however, that the government gave initial confirmation of the plans.

The HKPA had already made official requests for the centrally planned rallies of the organisation on December 11, 13 and 18 five months before the People's Action Week in mid-December. HKPA only received the letter of no objection from the Hong Kong police for these rallies by the end of November, however. Such delays caused inconvenience and problems for the alliance.

b. Police Attempted to Control the Action and Activities through 'Facilitation'

The police gave many baseless reasons to reject the request for areas for assemblies and rallies near the Hong Kong Convention and Exhibition Centre in Wan Chai where the WTO ministerial conference was scheduled to be held. The police even counter proposed venues that were either far from the conference site or too small to accommodate the thousands of participants that were anticipated.

HKPA had always considered the public and traffic in its plans. However, the HKPA did not receive the same thoughtful attitude regarding the inspection, control and management of protestors from the police. In fact, the police imposed many inspecting actions in the name of facilitation. Harassing they proved to be, these police actions were aimed at provoking strong agitation and hence violent reaction from the protestors during the conference, giving the police the legitimacy to arrest and stop them. For example, the police attempted to arrange the demonstration area at the Southorn playground, an area in Wan Chai far removed from the conference venue. The Wan Chai District Council, however, stated that the police should provide a suitable place for the protestors that was the closest possible area to the WTO conference venue.

c. Cancellation of Reservations Caused by Harassment from the Police

The police questioned hotels and car rental companies about their arrangements with HKPA-affiliated organisations. As a result, one boat rental company decided to cancel the reservation of an organisation. A Korean organisation's reservation in a hotel was also cancelled due to the police's questioning. The Korean guests only discovered that their reservations had been cancelled when they arrived at the hotel.

In addition, the office of the Indonesian Migrant Worker's Union (IMWU) was raided a few days before the People's Action Week. The police arrived at the IMWU office, questioned those present and checked them for 30 minutes. No warrant was shown. The police also frequented campsites, such as Tai Tong and Wu Kai Sha, to question the management about overseas guests.

During the People's Action Week, HKPA received several complaints from participants and coach drivers about the police stopping them and questioning the driver. Some passengers were searched.

After the December 13 rally, the police did not respond to the HKPA's request to bring the buses near the protest area. Some of the protestors were forced to stay on Lockhart Road, resulting in the delay of the road's reopening for others. During the December 15 demonstration, the truck with the public address system used to lead the procession was suddenly told by the police to go through security measures even though the truck had already been used on December 13. Later the police rejected HKPA's plan to use the truck even though the organisation had fulfilled the police's demands.

2. Demonstration Areas

The motion on approving the use of areas close to the conference venue restricted the rights of protesters and created inconvenience to the public. The police submitted a motion to Legco on setting up areas surrounding the convention centre in September 2005. HKPA widely criticised the police for painting a negative picture of protestors, thus undermining the latter's rights to assembly and speech.

3. Discrepancies and Humiliation in the Immigration Department

The Hong Kong Immigration Department created many obstacles for some participants from Indonesia, Thailand, the Philippines, Sri Lanka and even France who were interrogated and made to stay in the airport for more than four hours. Fortunately, they were later allowed entry. The person from France, Jose Bove, was shocked to experience being stopped by immigration officers as the organisation he was representing at the WTO conference was WTO-accredited.

4. Excessive Use of Weapons

Apart from creating hurdles and demonising the protestors, the focus of the police's preparations was on putting in place war-like facilities. This they did while continually ignoring the need for more technical assistance, like translators. This deficiency in the police's preparations would later lead to severe confusion for those helping the arrested protestors after the December 17 demonstration. This reflects on the police's attention on the use of weapons and the subsequent crackdown as described below.

a. *Water Canon:* Water canons were used on the December 17 protestors at the Wan Chai public cargo working area. The fire hose was first handled by firemen, though it is not their duty. It was then used by policemen who hit all people in the vicinity, including the press and onlookers among the crowd. There was also a chemical substance in the water that caused itching and pain.

b. *Pepper Spray:* Pepper spray was the most frequently and excessively used weapon during the whole People's Action Week. Many protestors were attacked directly in their eyes, which violates international standards on the weapon's use on protestors.

c. *Beanbag rounds:* Three cases of beanbag round victims were reported. All victims had serious injuries where they were shot with this weapon.

d. *Tear Gas:* Tear gas was excessively fired on the December 17 crowd in Central Plaza and Gloucester Road. Not only were the protestors affected but passers-by as well. HKPA received a complaint letter from a non-protestor who suffered damage to their respiratory system after inhaling tear gas that evening.

e. *Beatings by the Police:* Many injuries were caused by police violence during the December 17 rally. Victims were sent to the hospital with serious bleeding on their head and fractures of arms and legs.

While the police stocked round and rubber round, there was not sufficient information about these weapons available to the general public. Although the police claimed that these weapons would not fatally injure anyone, this assertion was contradicted by the death of an elderly woman who was shot by a beanbag round during a demonstration in Ireland. Since there was such a record, it is not justifiable for the police to use this weapon on unarmed protestors. The police must provide information to Legco and the public about the possible impact of each weapon on the human body.

The lack of any warning when these weapons were used made the situation worse. For example, all protestors, the press, ordinary people and even residents in Wan Chai were unnecessarily attacked by tear gas. The police should follow the operational code when they use this weapon and others and should explain the code to the public.

III. PROVISION OF MEDICAL AND EMERGENCY ASSISTANCE

1. Inadequate Medical Treatment and Service

The HKPA first aid helpers phoned the emergency centre several times before the first ambulance finally arrived. It was learned that the ambulance was stationed very far from the protestors, making it more inconvenient for the patients and volunteers.

2. Arbitrary Arrest at the Hospital

Many protestors were arrested at the hospital. The medical officers allowed the police to enter the hospital and arrest the injured protestors. In one case, the police gave a translator only a few seconds to speak before taking the patient away. HKPA later found that many of those arrested did not have complete and proper medical treatment.

3. Confidentiality of the Records of the Patients

A volunteer found the police to be extracting information about injured protestors from a medical worker. The hospital failed to defend the confidentiality of the patients' information.

IV. MASS ARREST ON DECEMBER 17-18

At about 10:00 p.m. on December 17, the police confined more than 1,000 protestors on Gloucester Road. However, the police did not arrest the protestors immediately. Instead the protestors were kept on the cold street for many hours. The arrests finally began at around 3:30 a.m. and finished only at about 1:00 p.m. on December 18.

1. Questions on the Legitimacy of the Mass Arrest

According to the police, the protestors were arrested on the charge of unlawful assembly. However, only 14 protestors among a thousand were considered to have violated Hong Kong law, and finally only three of them were prosecuted. Was it legitimate to arrest so many people

in order to charge three people? In fact, there are several questions about the legitimacy of the arrests.

a. The confrontations between some protesters and the police occurred only at a few locations. Less than 100 protesters were reportedly involved in the confrontations. Most of the protesters demonstrated peacefully in Wan Chai. There was not a single reported case of looting or destruction of property nor attacks on local civilians by the protestors.

b. A serious question arises regarding the justification of the charge of unlawful assembly concerning some WTO protesters because several reports confirm that on the evening of December 17 at least one group of protesters were actually guided by the police to the Wan Chai area and finally found themselves confined by the police on Gloucester Road. This group of protesters with about 150 people are members of the Korean Catholic Farmers Movement (KCFM). Under the guidance of the police, they joined the rear of the procession of protesters in the Wan Chai area at about 8:40 p.m. This means that there was no chance of them taking part in any of the confrontations in Wan Chai, which mainly occurred before their arrival. Eventually, except for some elderly people and women who were allowed to leave the area, more than 100 KCFM members who demonstrated peacefully were arrested.

c. During the police operation on Gloucester Road, the police also discriminated against overseas protesters, especially Asians, by allowing Hong Kong citizens and local resident ID cardholders as well as protestors from Western countries to leave Gloucester Road even after the protestors had been confined by the police. On what legal basis did they permit some people to leave the area while others were forced to remain and be arrested?

d. Many protesters complained that they did not hear any warnings that the police were closing the Wan Chai area. Around 7:00 p.m. to 8:00 p.m., the police announced to the public that people should not go to Wan Chai and that people in Wan Chai should leave immediately. However, many protesters responded that there was no warning from the police in Wan Chai asking them to leave the area. Instead, as mentioned above, some protesters were even guided by the police to this district. There was also no warning asking the protesters to leave before the police confined the protesters on Gloucester Road at 10:00 p.m.. If the police did so, most of the protesters would have left, and the police would not have needed to arrest more than 1,000 people, resulting in their ill-treatment and complaints.

2. Ill-Treatment by the Police during the Confinement on Gloucester Road

During the confinement of the protestors on Gloucester Road, several cases of ill-treatment of the protesters by the police were noticed.

a. During the period of confinement, the protesters could not access a toilet. According to reports, many protesters made requests to the police for access to a toilet, but the police simply pretended not to hear the demonstrators. Some protesters were even verbally abused by the police when they made these necessary requests.

- b. No food and water were provided to the protesters, except for a limited amount of biscuits that were reportedly provided by the police after repeated requests by the protestors.
- c. Even though the weather was very cold at night, no blankets were provided to the protesters, who were not equipped with warm clothes.
- d. In addition to being cold and tired, several demonstrators had a fever and fell sick. However, no medical attention was provided to them despite their requests.
- e. Many protesters complained that they could not understand the warnings or announcements of the police during their confinement on Gloucester Road due to a lack of interpretation by the authorities.
- f. All the protesters were handcuffed with so-called plastic ties at the time of arrest and remained handcuffed until arriving at the police station or detention facilities. In one case, when a Korean woman resisted being handcuffed, the police reportedly slapped her. In addition, because the plastic ties were too tight, people suffered severe pain.
- g. The police used unnecessary force during the process of arrest, even to people who voluntarily cooperated with the police.
- h. The process of arrest took an unreasonably long time, finishing almost 10 hours after the arrests began. The slow speed at which the police arrested the protestors contributed to the suffering of the demonstrators.

V. DETENTION

After the mass arrest, the police detained the protesters in police stations all over Hong Kong and the Kwun Tong Magistrates' Court. Many detainees complained after being released that they were subjected to dehumanising treatment during their detention and deprived of their basic rights according to international human rights standards.

1. Dehumanising Treatment during Detention

- a. After being arrested, protesters were transported in police vans and buses to 17 police stations and the Kwun Tong Magistrates' Court. Despite being very tired after being outdoors overnight, many protesters had to ride or wait in vehicles for more than eight hours. Some detainees even were relocated several times from one police station to another. At the Kwun Tong police station, protesters were detained and sat on the cold ground for three to four hours in an open parking area.
- b. In most places of detention, the cells were overcrowded with some cells having more than 20 people. People could not lie down to rest or even stretch their legs. Many people had to share one toilet. The weather was very cold, and there were not enough blankets for the detainees. At the Kwun Tong police station, detainees were forced to remove their socks and remain in a cold concrete cell.

- c. Many female detainees were forced to take part in a humiliating search-and-seizure procedure of their personal belongings. Police officers asked them to lift their bra and pull down their underpants for inspection. A group of women were even body-searched in the presence of male detainees. Many of them complained that the contents of their bags were removed with force and intimidation.
- d. Several female detainees complained of having their hands tied when they used the toilets and felt humiliated when female officers stripped their pants and they had to relieve themselves in front of the female officers.
- e. A male detainee complained of being beaten and slapped by police officers in a police bus, and a female detainee complained that she was beaten by police officers in a place of detention. Another female detainee also complained of being slapped when she resisted being strip-searched.

2. Deprived of the Basic Rights of Detained Persons

- a. Even after being taken to various police stations, the detained protestors were not clearly instructed about their legal status. What were the charges? These basic legal issues were not made clear to the detainees, especially in a language they could understand.
- b. There were also no provisions for detainees to contact lawyers. While in some police stations there were notices displayed that people are allowed to make telephone calls and write e-mails, these communication facilities were never provided. Only two people out of about 600 detainees questioned by some civil society groups were allowed to call or e-mail their families. Nor was there any attempt by the police to inform their families of their arrest.
- c. In many places of detention, lawyers were denied access to the detainees. The police did not allow lawyers to visit the detainees unless the lawyers could give the names of the detainees. However, as the protestors were divided and detained in many police stations, the lawyers who wanted to provide legal assistance could not know who were detained in which detention centres unless the police revealed the list of detainees indicating their places of detention. Only after negotiating with the police were the lawyers allowed to visit some of the detainees.
- d. The absence of interpreters made the situation much worse. In many police stations, there was no interpreter to help the detainees understand the police's instructions and assert their rights. Without an interpreter, lawyers could not communicate with the detainees even if they could meet them.
- e. The police ignored or rejected the requests of many detainees for medical treatment.
- f. For detainees from overseas, there was no notification that they had the right to contact their consulates.

VI. COMPLAINTS SYSTEM

The system in which complaints are made against the police is seriously flawed. It operates in a totally unfriendly way, lacks independence and is biased in favour of the police. People intending to make complaints have been deterred from lodging them. A proper investigation may be denied by persuading a complainant to accept an “informal resolution” of their complaint. Statements taken by the Complaints against Police Office (CAPO) and the *sub judice* principle may be unfairly exploited by the police at the expense of the interest of the complainant.

VII. REMARKS

The most absurd aspect regarding the response of the authorities to the WTO protests was the arrest of 1,032 protesters during the December 17 demonstration. After being kept during arrest and in detention for up to about 56 hours, the remaining detainees were finally released except for 14 who were charged with unlawful assembly. On January 11, 2006, charges were dropped against 11 protestors, leaving three to answer a charge. Truly anomalous, the police could not present any evidence while they continued to prosecute the protesters.

It is the duty of the police to release people in the shortest possible time after their arrest. However, why were these people, excluding the 14 people who were eventually charged, kept for such a lengthy period of time? Was it necessary to detain more than 1,000 people in the first place? If the purpose of detention was the investigation or identification of suspects, whose number turned out to be only 14, was it justifiable to do so by arresting and detaining so many people to deprive them of their liberty? Concerns have been raised that the protesters, who had not violated any laws, were kept in detention to prevent them from participating in protests on the final day of the WTO conference on December 18. This claim must be examined by the authorities as it constitutes a serious violation of the protesters’ fundamental rights to assembly and expression.

Hereby, we are calling for a thorough and independent inquiry by the Hong Kong SAR government and Legislative Council into the police’s actions against the WTO protesters on December 17 and 18. The authorities must take the large number of complaints into serious consideration and explain to the public their position on these complaints.