

Legislative Council Panel on Home Affairs
Subcommittee on Human Rights Protection Mechanism

Existing human rights framework in Hong Kong

Purpose

As requested by the Subcommittee, this paper presents for Members' information the Administration's response to the views set out in the information note LC Paper No IN06/06-07, entitled "Academics' views on the existing human rights framework in Hong Kong", prepared by the Research and Library Services Division of the Legislative Council (RLSD).

Administration's response

2. We note with thanks the study conducted by RLSD and the different views among the five academics and one research centre which responded to the RLSD's enquiries regarding conformity of the existing human rights framework in Hong Kong with the Paris Principles.

3. For clarity of perspective, we are in duty bound to point out that the Paris Principles are the recommendations of a working group convened in 1991 by the Centre for Human Rights on the role, composition, status and functions of national human rights institutions. While the recommendations were subsequently endorsed by the Commission on Human Rights whose views we respect, from a legal perspective the recommendations of the working group are not mandatory, nor do they create any binding obligation on the HKSAR Government at both the international and domestic level. We are also not aware of any representative studies or systematic assessment of the experience and effectiveness of the existing national human rights institutions, whether or not such institutions are established in compliance with the Paris Principles.

4. We have explained in our paper submitted to the Home Affairs Panel (ref LC Paper No CB(2)1014/06-07) reproduced at the Annex for easy reference) the existing arrangements and mechanisms for protection

of human rights in Hong Kong. In short, human rights in Hong Kong are fully protected by law. The legislative safeguards are enshrined in the Basic Law, the Hong Kong Bill of Rights Ordinance and other relevant ordinances. They are buttressed by the rule of law and an independent judiciary. We also have an existing institutional framework of organisations which help promote and safeguard different rights. The detailed responsibilities of these organisations, including the legal aid services, the Equal Opportunities Commission, the Office of the Privacy Commissioner for Personal Data and the Ombudsman, are also set out in the paper mentioned earlier in this paragraph.

5. Our present view remains as stated in paragraph 23 of the same paper, that is, that there already exists in Hong Kong an extensive mechanism for protection of human rights. The constitutional and legal provisions are firmly underpinned by the rule of law, an independent judiciary, statutory bodies and institutions and a comprehensive legal aid system. The effectiveness of the existing mechanism and the work of the Government and these bodies are continually and closely monitored by the Legislative Council and the public, including particularly the media. We therefore do not see an obvious need for establishing another human rights institution to duplicate or to supersede existing mechanisms and have no plans or timetable for the establishment of such in the immediate future. Over the past year, we have stated this view in HKSAR's second periodic report in respect of the International Covenant on Civil and Political Rights. In response to the Human Rights Committee's concluding observations on the second report relating specifically to the need for a human rights commission, we have reiterated the same position.

6. We note that the academics who responded to RLSD's enquiries have been invited to attend the first meeting of the Subcommittee on 29 April 2007. We welcome the opportunity of listening to their further views.

Home Affairs Bureau
April 2007

^{Note} The Annex is not attached. Please refer to the Administration's paper issued on 6 February 2007.