

**Human Rights Violations  
during the Policing, Arrests, and  
Detentions during the WTO Protests in  
Hong Kong, December 2005**

Submission to the 86th Session of the U.N. Human Rights Committee:  
Consideration of the Second Report of the Hong Kong Special Administrative Region  
of the People's Republic of China in light of the International Covenant on Civil and  
Political Rights

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## **Executive Summary**

1. The Hong Kong People's Alliance on the WTO (HKPA) and the Asian Human Rights Commission (AHRC) made the submission to the Human Rights Committee to express our concern about the human rights violations committed by the Hong Kong police against demonstrators opposed to the policies of the World Trade Organisation (WTO) at the WTO's sixth ministerial conference in Hong Kong, especially during the arrest of more than 1,000 protesters and their detention on December 17 and 18, 2005. The major human rights issues raised in the submission are highlighted below.

### **Restrictions on the Freedoms of Expression and Assembly**

2. The police delayed the approval of areas for assemblies and rallies for the People's Action Week during the WTO session. Moreover, once areas for assemblies and rallies were approved, they were far from the Hong Kong Convention and Exhibition Centre where the WTO ministerial conference was held. The police even designated areas surrounding the convention centre as closed areas.

3. The police questioned hotels, camps and car rental companies about their arrangements with organisations taking part in the People's Action Week. After the questioning, several reservations were cancelled. The police even asked some camps to give them the lists of names and daily schedules of these organisations.

4. The undue delay of the approval of visas for some overseas participants of the People's Action Week greatly limited their participation. Many participants from India, Indonesia, Thailand, the Philippines, Sri Lanka and France were interrogated by Hong Kong Immigration Department officials upon their arrival and were made to stay in the airport for up to seven hours.

### **Excessive Use of Force and Weapons by the Police**

5. According to the Hong Kong police, 700 bottles of pepper spray, six beanbag rounds and 34 tear gas grenades were used throughout the ministerial conference in Hong Kong, an excessive amount given the primarily peaceful actions of the majority of demonstrators.

6. Pepper spray was the most frequently and excessively used weapon. Many protesters were attacked directly in their eyes with this weapon. In addition, tear gas was excessively fired on the crowd in Central Plaza and Gloucester Road on December 17. Not only were the protesters affected but passers-by as well.

7. Many injuries were caused by police violence during the December 17 rallies. Victims were sent to the hospital with bloodied heads and fractured arms and legs.

## **Arbitrary Arrest and Detention of Protesters on December 17 and 18**

8. At about 10:00 p.m. on December 17, 2005, the police confined more than 1,000 protesters on Gloucester Road. On a cold night, the protesters were kept on the street overnight. The arrests finally began at approximately 3:30 a.m. and finished only at about 1:00 p.m. on December 18. After the mass arrest, the police detained the protesters in police stations all over Hong Kong and at the Kwun Tong Magistrates' Court. All of the female detainees and the Korean child – 188 people – were released at around 1:00 a.m. on December 19. The police released all of the remaining detainees – 994 people – in the late evening of December 19, except 14 detainees who were kept for further investigation.

9. The police did not have reasonable grounds to arrest more than 1,000 protesters. Most people demonstrated peacefully and did not take part in confrontations with the police. Afterwards, only 14 protesters, among the more than 1,000 arrested, were considered to have violated Hong Kong's laws, and finally just two of them were prosecuted.

10. Moreover, the arrests were carried out arbitrarily and discriminatorily. For example, during the confinement of protesters on Gloucester Road, there were many instances in which the police allowed Hong Kong citizens and local resident cardholders as well as protesters from Western countries to leave but prohibited protesters from Asian countries from doing so.

## **Inhuman and Degrading Treatment of Protesters during the Arrest and Confinement of Demonstrators on Gloucester Road**

11. During their overnight confinement on the street, the protesters were rejected access to toilets.

12. No food and water were provided to the protesters, except for a limited number of biscuits provided by the police after repeated requests by the demonstrators.

13. No blankets were provided to the protesters who suffered from the very cold weather that night.

14. No medical attention was provided to protesters despite their requests.

15. Protesters were handcuffed with so-called plastic straps at the time of their arrest and remained handcuffed until arriving at the police station or detention facilities.

16. After being arrested, many protesters had to ride or wait in police vehicles for more than 10 hours before being put in detention cells.

## **Inhuman and Degrading Treatment of Protesters in Detention**

17. In most places of detention, the cells were overcrowded with some cells having more than 30 people. People had to sit on cold cement floors and could not lie down to rest. Moreover, detainees were kept in these cold conditions with their socks removed and without enough blankets. Many people also had to share one toilet, which was inside the cell and openly exposed to others.

18. Many female detainees were forced to take part in a humiliating search-and-seizure procedure. Police officers, for instance, asked some women 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.

19. Some detainees complained of being beaten by police officers.

### **Deprived of the Basic Rights of Detainees**

20. The detainees were not clearly instructed about their rights and the charges against them. The police also did not tell the protesters where they were detained.

21. The police denied requests from detainees to contact their families or friends by telephone.

22. In many places of detention, the police did not allow lawyers to visit the detainees unless the lawyers could give the names of the detainees. Only after negotiating with the police were the lawyers allowed to visit some of the detainees.

23. In many police stations, there was no interpreter to help the detainees understand the police's instructions and assert their rights.

24. On numerous occasions, detainees reported illnesses that needed medical attention. However, police officers refused to respond to most of these requests. Detainees were even denied access to their own medication. In the case of three HIV/AIDS patients and one asthmatic patient, this denial seriously endangered their lives.

### **Recommendations**

25. The committee should urge the Hong Kong government to carry out a thorough and independent inquiry into the human rights violations that occurred during the mass arrest of the WTO protesters and their detention by the police on December 17 and 18, 2005.

26. The committee should urge the Hong Kong government to carry out a comprehensive review of the police's guidelines, methods and use of force and weapons for policing demonstrations and public assemblies to ensure that they comply with the ICCPR.

27. The committee should urge the Hong Kong government to set up an independent complaint mechanism against the police.

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# 1 Introduction

1. This report was prepared by the Hong Kong People's Alliance on the WTO (HKPA) and the Asian Human Rights Commission (AHRC) for submission to the 86th Session of the U.N. Human Rights Committee hearing on the Second Report of the Hong Kong Special Administrative Region of the People's Republic of China in the light of the International Covenant on Civil and Political Rights. The contents reveal the human rights violations committed by the Hong Kong government and police against demonstrators opposed to the policies of the World Trade Organisation (WTO) in the lead up to and during the WTO's sixth ministerial conference in Hong Kong.

2. Out of the protest actions at the WTO's ministerial conference in Seattle, the opposition movement to the policies of the WTO has grown, to such a phenomenal extent as to attract thousands of protesters to the most recent ministerial conference held in Hong Kong. From all around the world, farmers, fishermen, grassroot workers and patients are negatively impacted by the policies of the WTO. The seriousness of these often life- threatening outcomes is fundamental to the growth of the movement. Prior to December 2005, over 4000 international protesters expressed their intent to come to Hong Kong to protest against the WTO.

3. During the WTO ministerial conference, thousands of protesters from Hong Kong as well as many other countries, particularly neighboring Asian countries, actively voiced out their concerns and demands on the streets. They included men and women, young and old, all of whom spent long hours braving the cold. The sympathy of the Hong Kong people was clearly with those on the streets. The Hong Kong community took sympathetic note of the arguments made by the protesters against those conducting their discourse in comfort.

4. At times when great social debates are fought fiercely, the work of law enforcement agencies is made more difficult. It is at such times however, that law enforcement agencies are tested. In the absence of a willing dialogue between WTO delegates and members of social movements, the protesters were merely expressing their right to speak and be heard by those making decisions affecting their lives. Under these circumstances, the police's job to maintain law and order is not easy and limited measures taken to control the situation and to ensure the protection of others, such as those participating in the WTO ministerial conference are understandable. All measures however, must be taken in accordance with the law. In particular, the use of force must be a proportionate response to the situation.

5. However, the Hong Kong government systematically repeatedly undermined plans for legitimate and peaceful demonstration prior to and during the WTO ministerial conference and took up unnecessary harmful action to crack down the protest on December 17, 2005. The behavior of the Hong Kong police – particularly from the evening of December 17 to the morning of December 18 – has raised many questions

regarding principles of law enforcement and human rights. The submission will give a comprehensive account on the human rights violations committed by the police during this period.

6. This submission is based on the factual experience of the HKPA during the preparation and implementation of People's Action Week, the activities running parallel to the WTO's sixth ministerial conference. With respect to the human rights violations that occurred during the mass arrest and detention, this report is based on detailed statements received from approximately 45 individuals and groups representing a mixture of international and local participants, reports from activity organizers, reports from lawyers, police reports submitted to the Hong Kong Legislative Council (Legco), numerous interviews with action organizers and observations from Hong Kong citizens living near Kwun Tong Station. This report presents a comprehensive review of the human rights violations as a result of the policing before and during the WTO session, the excessive use of weapons, the mass arrest on December 17-18, the detention, and the Hong Kong complaints system. For further reference, a map of Wan Chai, a chronology of the events of December 17, some photographs, and the questionnaire used in the collection of statements have been included as attachments.

7. The submission concludes with a list of recommendations for the committee.



## **2 Policing before and during the WTO Session: Restrictions to the Right to Assembly and the Freedom of Expression**

8. Throughout the year prior to the WTO Conference the actions of the police undermined the people's right to assembly and freedom of expression. Article 21 of the *International Covenant on Civil and Political Rights (ICCPR)* recognizes the right of people to participate in peaceful assembly. Knowing that thousands of people would be coming to Hong Kong to participate in the demonstrations against the WTO, the HKPA took its role, as local facilitator, seriously in order to best ensue and maintain the peaceful nature of these events. The Hong Kong government and the Hong Kong police used many systematic tactics both prior to and during the WTO conference in order to undermine the people's ability to peacefully protest.

9. Furthermore, Article 19(2) of the ICCPR states that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." This section will show how the actions of the police restricted the exchange of opinions.

### **2.1 Restrictions to the Right to Assembly**

#### **2.1.1 Delay of approval on venue requests for People's Action Week**

10. Since March 2005, the 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 the HKPA exerted pressure, however, that the government gave initial confirmation of the plans.

11. 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. The 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.

#### **2.1.2 Police attempts to control activities through 'facilitation'**

12. The police gave many baseless reasons to reject the request for areas for assemblies and rallies near the Hong Kong Convention and Exhibition Centre (HKCEC) 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.

13. The 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 protesters 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 protesters 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 protesters, one that was the closest possible area to the WTO ministerial conference venue.

14. After the December 13 rally, the police did not respond to the HKPA's request to bring buses near the protest area. Some of the protesters were forced to stay on Lockhart Road, resulting in the delay of the road's reopening for others and an incurred late fee for the protesters of \$1,200 USD for the rental of the buses. 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.

### **2.1.3 Police harassment of local businesses causing cancellations**

15. The police questioned hotels, camps and car rental companies about their arrangements with HKPA-affiliated organizations. After the questioning, several cancellations took place, including reservations of one boat company and several hotels.

16. After reservations were successfully made at local campgrounds, the police made several attempts to obtain private records about participants who would be staying at these facilities during the WTO ministerial conference in December, a request that falls outside of normal operating procedures. In July/August 2005, just after Tai Tong camp accepted the HKPA reservation, on behalf of KCTU, police officers visited the camp and asked the manager to submit a name list to the police. The manager refused to release this information and reported the request to the HKPA. In November, all of the camps booked by the HKPA (Tai Tong, High Rock, Wu Kai Sai, and Phab) were visited by police officers, once again requesting name lists and daily schedules of those individuals who would be staying at the facilities.

17. On December 14, approximately eight police officers, lead by the officer in charge of NGOs liaison, forced themselves into the Wu Kai Sai campground without advance notification of the camp site manager and user representative (Wu Sui Shan) and demanded a meeting with the Korean groups. The Korean groups did not meet with the police because prior notice had not been given, and they were already involved in another meeting. The police left some leaflets without engaging in a formal meeting.

18. In addition to the disturbance at local camps, the office of the Indonesian Migrant Worker's Union (IMWU) was raided a few days before 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 left after 30 minutes of interrogation. No reason was given for the action.

19. During People's Action Week, the HKPA received several complaints from participants and coach drivers who were stopped and questioned by the police. After dropping the Korean peasants in Wu Kai Sai camp one night, a few inspectors from the Police Headquarters boarded a coach and questioned the driver about his route and passenger details for a few minutes.

20. In addition to impeding people's right to assembly by limiting their ability to find accommodation through continued harassment, the above actions show how the police interfered in the business affairs of the HKPA, its affiliates and local businesses. In doing this, the Hong Kong government undermined the reputation of the HKPA and infringed upon the personal privacy of those individuals whom the HKPA represents, thus violating Article 17(1) of the ICCPR, which states that "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."

#### **2.1.4 Declaration of closed areas**

21. The police submitted a motion to the Hong Kong Legislative Council on setting up a "closed area" surrounding the convention centre in September 2005. The approval of this motion closing areas near to the conference venue restricted the rights of protesters and created inconvenience to the public. The HKPA widely criticised the police for painting a negative picture of protesters throughout this process.

## ***2.2 Restrictions to the Freedom of Expression***

### **2.2.1 Discrepancies and humiliation in the Immigration Department**

22. In the months prior to the WTO ministerial conference, the HKPA was involved in helping to arrange visas for various overseas participants who would be coming to Hong Kong to participate in the wide variety of people's activities running parallel to the official WTO ministerial conference. As of December 8, only days before the first mass rally and already running into the start of some scheduled events, a number of participants had still not been issued the proper entry visas, though local Hong Kong partner organisations had been working on their cases for up to three months. At that time, the HKPA issued a letter to the Hong Kong Immigration Department addressing their concerns about the delay of visa applications of at least 25 people from Cambodia, India, Iraq, Nepal, Pakistan, Sri Lanka, Syria, and Vietnam. HKPA member organisations, the Asian Students Association, the Asian Migrant Centre, the Asian Pacific Mission for Migrants and the Asia Monitor Resource Centre were among some of the local groups who experienced difficulties with obtaining visas for their guests. Network groups in Sri Lanka reported that the Chinese Embassy in Colombo told the groups that they could not

issue Hong Kong visas to the protesters. Some of the invited participants, even upon eventual receipt of their visa, opted to no longer come to Hong Kong as the forums in which they would have participated had already been completed.

23. In addition to undue delays in visa approvals, the Hong Kong Immigration Department created many obstacles for People's Action Week participants upon their arrival in Hong Kong. Participants from India, Indonesia, Thailand, the Philippines, Sri Lanka and France were interrogated and made to stay in the airport for up to seven hours. The International League of Peoples Struggles, Bagong Alyansang Makabayan, and RESIST!, in a joint press statement released on December 9, stated that three of their leaders, "Dr. Carol Pagaduan-Araullo, BAYAN chairperson and RESIST! spokesperson, Ms. Elisa Lubi of ILPS and GABRIELA, and Ms. Norma Binas of the Kilusang Mayo Uno (KMU, May First Movement Labour Centre) were harassed, detained and subjected to interrogation." The statement further mentioned that these women were not given a reason for their detention and that their bags were searched before they were released. The person from France, Jose Bove, was shocked to experience being stopped by immigration officers, since he was representing a WTO-accredited organisation. These exceedingly long periods of detention stand in stark contrast to the Immigration Department's performance record of clearing 99%, of all arrivals at the airport control point within 15 minutes in 2005, as stated on the Immigration Department's website. This continued harassment, further supports the bias against those coming to participate in anti-WTO activities.

24. Visitors to Hong Kong from many countries are able to enter the region without entry permits or visas. For visitors requiring advanced paper work, the Hong Kong Immigration Department puts forth in its 2005 performance pledge, viewable on their website, that 100% of all applications for entry visas and permits for visit will be processed within four weeks of receiving the necessary documents. Given the lengthy application and immigration processing times, much greater than the Immigration Department's own commitments, the HKPA questions the government's commitment to the freedom of expression.

25. By forcing the HKPA and its members to engage in needless bureaucracy, and by harassing overseas participants, to the extent that some did not come to Hong Kong, the capacity of those involved in the anti-WTO movement was severely impeded by the Hong Kong government. Not only was the right to impart information denied of the organisers, but the Hong Kong public was also denied the opportunity to receive an alternative voice to the official WTO ministerial conference actively promoted by the Hong Kong government.

### **2.2.2 Police attempt to prevent the display of artwork**

26. A Danish artist, Mr. Jens Galsshiot, applied to display several works of art pinpointing the inequitable reality of world trade in front of the HKCEC. The theme sculpture "Mad Cow Disease" depicts a pair of scales, eight metres tall. On the one arm, a dead cow hangs by its legs. On the other arm, a number of hunger boys hang in the

balance. The sculpture illustrates the rich world's absurd "madness of subsidies." The Hong Kong government and the WTO turned down his application. In order to still have a public viewing of these pieces during the WTO ministerial conference, arrangements were made to display the sculptures in Victoria Park. Only after days of negotiations and an endless series of obstacles from the park manager was approval granted.

27. The park required Mr. Galsshiot to present an insurance document. It further requested that the HKPA hire a surveyor to verify the safety of the sculpture. Even with the surveyor's approval of a much smaller safety zone, the Park set up a ridiculously large iron fence perimeter to prevent people from going near the sculptures. The public, by being kept at a distance, were denied the full impact of these works of art.

### **2.2.3 Police scare tactics prevent visits to Victoria Park**

28. On the evening of December 17, there was a concert in Victoria Park. However, police actions created a fearful environment, which prevented many people from participating in this activity and others happening at Victoria Park. Using fear tactics, the Hong Kong police interfered with the people's right to impart and receive information.

29. The observations below are from a Filipino activist at Victoria Park that night.

"I observed that Victoria Park was transformed as a militarized zone. Policemen were surrounding the HKPA command post. They were stationed in a line along the major entrances. They also formed a line surrounding the soccer fields."

30. In fact, the police restricted the activities at the Victoria Park. Many people were stopped and questioned by the police at the entrance. The police searched all of their belongings. Many people were sent away.

"I heard shouting coming from the line of policemen. I saw 5-6 Koreans having an argument with the policemen. I could not understand what exactly they were saying but it appears that the policemen were not allowing them to pass through to reach the covered lawn of Victoria Park. I approached one of them but I could not communicate very well because they were speaking in Korean. After a while, the Koreans left.

"The whole night of 17 December until the next morning, the government continuously sent out message to convince the public not to go to Wan Chai and Causeway Bay through the media"

### **3 Excessive Use of Weapons**

31. Apart from creating hurdles and demonising the protesters, the focus of the police preparations was on putting in place war-like facilities. In an oral police statement reported to the Hong Kong Legislative Council on February 7, 2006, it was stated that 700 bottles of pepper spray, six beanbag rounds, and 34 tear gas grenades were used throughout the ministerial conference in Hong Kong.

32. Article 7 of the ICCPR states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” Inadequate public information about the effects and use of the weapons stocked by the Hong Kong police for use during the WTO ministerial conference coupled with insufficient warning before the use of water canons, pepper spray, tear gas, beanbag rounds and direct physical violence subjected many people to inhuman treatment. The cruel effects of the police weapons are described below.

#### ***3.1 Bodily Harm as a Result of Weapon Use***

##### **3.1.1 Water canon**

33. Water canons were used on the December 17 protesters at the Wan Chai public cargo working area. Firemen were the first to handle the water canons, though it was not their duty. Policemen then took control and hit all people in the vicinity, including the press and onlookers among the crowd, a photograph is included in Appendix C: Photographs. Many participants reported that the police aimed the canon directly into the face of protesters, many of whom were just standing in the area and not involved in any direct confrontation with the police. A chemical substance in the water caused itching and pain. One protester reported that his glasses were broken as a result of this action.

##### **3.1.2 Pepper spray**

34. Pepper spray was the most frequently and excessively used weapon during the whole of People’s Action Week. Many protesters were attacked directly in their eyes, in violation of international standards on the weapon’s use on protesters, see Appendix C: Photographs for a picture. Again, this weapon was used indiscriminately and even shot at onlookers and press who were not moving.

35. Though many people – WTO-accredited NGO representatives, international peasants and workers, local activists, the international and local press, as well as local Wan Chai residents observing the demonstrations – could express similar stories, here is one example of a statement shared with the HKPA about the police’s excessive use of force on December 17.

“I was injured by pepper spray and tear gas. I felt pain and dry from my eyes as I worn contact lens. I also felt I could not breathe. I had some small cuts on my legs... The HK students helped me. They used toothpaste and water to clean my eyes.” (Yong, Thailand)

### **3.1.3 Beanbag rounds:**

36. Three cases of beanbag round victims were reported from the Korean Struggle Mission. All victims had serious injuries where they were shot with this weapon. A picture of one of the injuries has been included in Appendix C: Photographs. In addition to the seriousness of the injuries caused by beanbag rounds, the police did not inform the public about the use of this weapon. Only after photographs were released in the media did the police admit that they were using this firearm. The use of this weapon put many people at risk. Principle 11 of the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* stipulates that firearms should only be used under “appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm” and that warnings should be given when they are discharged. The lack of warning about the use of this weapon and its use in the demonstration context put many people in danger.

### **3.1.4 Tear gas**

37. Tear gas was excessively fired on the December 17 crowd in Central Plaza and Gloucester Road. Many people complained about skin and respiratory irritations as a result of the uncontrolled nature of tear gas.

38. The HKPA received a complaint letter from a Hong Kong citizen who suffered damage to their respiratory system after inhaling tear gas that evening.

39. At least two Korean protesters were allergic to tear gas. Because there were no Korean interpreters at the police station where they were taken during their detention, they were unable to inform the police of their condition. It was more than 30 hours before appropriate follow-up to their condition was given.

40. An occupational safety and health patient from Thailand reported some additional injuries caused by the use of tear gas.

“It was very cold. My brain could not work probably. I twisted my ankle while I fell down on the road after the police fired teargas to the protesters. I could not walk probably. I felt very pain at my leg... No first aid. My friend took care of me.”

### **3.1.5 Beatings by the police**

41. Many injuries were caused by the direct physical violence of the police during the rally on December 17. Victims were sent to the hospital with bloodied heads and

fractured arms and legs. A reporter told the HKPA that he was beaten by the police, even though he did not carry out any “dangerous” acts. Even after declaring his identity and falling to the ground, the police continued to beat him.

42. Some additional statements are shared below.

“After the police fire the teargas . . . I was squatting to pull away the iron fence, my left leg and hand were brutally beat by the police with baton. I wanted to run away but my body could not move and just lie down at the ground. The police did not stop and continued to beat me on my head, shoulder, leg, hand and my back. I end up painfully fold up my body on the ground.” (Ms. Wong, Taiwan)

43. Two photographs of Ms. Wong being surrounded by police are included in Appendix C: Photographs.

“I am a Korean Peasant, who joined in the protest against the WTO from December 13, 2005. On 17th evening, I got hurt in my head and bled, after I was beaten with a truncheon of the police that were suppressing the demonstration with tear gas. It was happened while I was sitting in the flowerbed with nothing in my hand.

“A few hours later, the police encircled the protesters. After the midnight, I felt cold and had a pain in my head. I thought I couldn’t stay on the street any more. I told a police officer that I would go out to the hospital. However, he rejected my request with a high hand.

“I couldn’t get any medical treatment or even a piece of blanket on the cold street, even though I caught a sudden cold and had a fever, until I was arrested. It was about 14:00 on 18th when I was arrested with other members of our group.” (Mr. Hwang, Korea)

44. In my Mr. Hwang’s case, further requests for medical attention were denied until approximately 4:00 a.m. on the morning of December 19.

“I was between the police and the convention center – on the outside of the protest. There were many times it seemed something was wrong. At intervals the police marched forward, seemingly on command. They would also start thumping their batons on their hands and chanting something that I did not understand. It was very intimidating.

“I was caught between the people breaking through the police line and a new set of police running forward. I did not get arrested, but I fell down and was hit by a police baton on the head. Must have been at about 5:00 p.m. . . .



“I was hit on the head with a police baton – I went inside the convention center where I was given an ice pack. They seemed quite uncertain what to do. I said I was hit on the head and felt dizzy and they were more interested in a cut on my hand. It was very strange. . . .

“No warnings.” (An accredited NGO participant, USA)

### **3.2 Violation of International Human Rights Standards**

45. In addition to violating Article 7 of the ICCPR by subjecting people to cruel and inhuman treatment, the above statements clearly show that many people, who were not directly involved in the confrontation between the police and a small number of protesters, were harmfully impacted by the police’s excessive and uncontrolled use of weapons. This violates Principle 3 of the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, which states that, “The development and deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.” Many of these people were injured, with the injuries varying from minor skin irritations, cuts and twisted ankles to severe allergic reactions, bleeding head wounds and fractures.

46. In accordance with Principle 5 of the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, law officials should have ensured that medical care was given to “affected persons at the earliest possible moment.” Many of the statements indicated that law officials granted no medical assistance to those who were injured as a result of their use of force. HKPA first aid helpers had to phone the emergency centre several times before the first ambulance finally arrived. Phone operators asked the first aid helpers whether the people injured were protesters or local citizens. The HKPA first aid helpers were shocked by the question, but continued to urge emergency services to send medical support. When emergency services finally responded to the request, ambulances were stationed several blocks away and patients were forced to walk to these locations in order to receive medical attention. When medical attention was given it was often untimely, repeatedly over 24 hours, and inadequate.

47. Furthermore, while the above-mentioned guideline only specifically cites the necessity to warn the public about the use of firearms and not the use non-lethal weapons like tear gas and pepper spray, it is believed that the adverse effects of such weapons, as shown in this report, merit a warning to the public before they are used. A warning, as such, was not given.

## **4 Mass Arrest on December 17–18**

48. At about 10:00 p.m. on December 17, 2005, the police confined more than 1,000 protesters on Gloucester Road. The protesters 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.

### **4.1 Questions on the Legitimacy of the Mass Arrest**

49. According to the police, the protesters were arrested on the charge of unlawful assembly. However, there are several questions about the legitimacy of the arrests.

50. First, the police stressed that on December 17 the demonstrations in the Wan Chai area had turned into riots, and they subsequently sealed off the whole Wan Chai area and ordered local people to leave the area. However, the fact was that the confrontations between some protesters and the police occurred only at a few locations (please refer to Appendix B: Chronology of Events: December 17, 2005). Most of the protesters demonstrated peacefully in Wan Chai while about 100 protesters in total were involved in the confrontations with the police. There was not a single reported case of looting or destruction of property nor attacks on local civilians by the protesters.

51. There were no further confrontations between the protesters and the police after about 8 p.m. At the same time, the police surrounded more than 1,000 protesters on Gloucester Road and restricted their movement. At about 10 p.m., the police prohibited protesters from leaving and prepared to arrest them. The question is whether there were justified reasons to do so. There was no longer any confrontation. In fact, any attempt at arresting the protesters could itself potentially provoke a confrontation. Fortunately though, the arrest took place peacefully as the protesters did not resist arrest, and some even assisted in a way to speed up the arrest process.

52. Second, in order to carry out an arrest, the police should have a reasonable suspicion that people had been involved in an unlawful assembly which resulted in a breach of the peace. The question is whether the police had valid reasons to believe that the thousand people they arrested were involved in an unlawful assembly. Mere suspicion not supported by reasonable grounds is insufficient to justify an arrest. As mentioned above, most people demonstrated peacefully with not more than 100 people involved in the confrontations on that day.

53. A serious question arises regarding the justification of the arrest 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 on Gloucester Road at about 9:00 p.m. This means that there was no chance of them taking part in any of the confrontations in Wan Chai, which 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. Some Thai and Indonesian protesters were also allegedly put in the same situation as the KCFM members.

54. The HKPA received several statements from the KCFM protesters. We present one statements among them below to describe the actual situation of the incident. The following statement is from Cheong Jae Don, the president of the Korean Catholic Farmers Movement (KCFM):

“I am very well aware about our group’s activities during our stay in Hong Kong as I was the leader of the KCFM delegation which participated in activities against the sixth WTO talks. . . . On December 17 (Saturday), the KCFM members . . . held a mass at 2:00 p.m. After that, we marched from Victoria Park to the cargo handling basin near the Convention Centre with the cross at the head. At the cargo handling basin, we had a peaceful march following the route which the police arranged; and after arriving at the venue, we released balloons with the words “No WTO” written on them and gave our peaceful messages by giving roses to the Hong Kong police. . . . We then had a brief gathering at the cargo area and took a break. After that, we left the place to attend a candlelight demonstration which the Korean protesters held every night. We followed the guidance of the police and joined other Korean groups at around 9:00 p.m. Therefore, we did not know what happened before then. At around 10:00 p.m. when we were trying to leave, the police blocked us, saying that they were going to arrest all of the protesters. After that, we were detained on the street, fighting the cold weather until being arrested at around 11:00 a.m. of December 18. For the whole night, our group stayed at the rear of the procession far from the police line and did not confront the police.”  
(December 21, 2005)

55. Third, the arrest was carried out arbitrarily and discriminatorily. For instance, during the confinement of protesters on Gloucester Road, there were many instances in which the police allowed Hong Kong citizens and local resident cardholders as well as protesters from Western countries to leave but prohibited protesters from Asian countries from doing so. If the police confined all of the protesters on Gloucester Road on suspicion of being involved in an illegal act, on what legal basis did they permit some people to leave the area while others were forced to remain and be arrested?

56. In another example, a Thai female activist—Meaw—informed the HKPA that a Thai female, a member of her group, could leave the area after showing her British passport to the police while others were not allowed to go. Moreover, Ms. Chan, a staff member of a church organisation in Hong Kong who worked as an observer during the WTO protest period, reported that she observed the police allowing several Hong Kong citizens who

held Hong Kong ID cards to leave the area at around 11:30 p.m. She further reported that when two Korean women demanded that the police let them leave at around 12:30 a.m. on December 18 the police requested them to show their passports and searched their belongings. They were sent back to Gloucester Road, however, after the police recorded their passport information.

57. Fourth, many protesters complained that they did not hear any warning that the police were closing the Wan Chai area. Between 7:00 p.m. and 8:00 p.m., the police announced to the public on the television and radio 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, the police surrounded all the protesters without warning, and 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 subsequent ill-treatment and complaints.

58. The mass arrest is in violation of Article 9 of the ICCPR, which clearly states that no one shall be subjected to arbitrary arrest or detention. There were no justifiable reasons to arrest more than 1,000 people. This assertion is confirmed by the fact that afterwards only 14 protesters, among the more than 1,000 arrested, were considered to have violated Hong Kong's laws, and finally just two of them were prosecuted.

## **4.2 Arrest and Detention of a Child**

59. It is also reported that a 11-year-old Korean boy was arrested and detained by the police despite repeated requests to the police by the HKPA staff to release him. The boy had to suffer from the cold temperatures and hunger on the street overnight until he was arrested. Between 8:00 a.m. and 9:00 a.m. on December 18 when a HKPA staff member made a request to two police officers on Gloucester Road to let the boy go, the policemen enquired about the nationality of the boy. When a HKPA staff member replied that he is Korean, the police officers immediately turned down her request. Ten minutes later a HKPA staff member again approached a police commander who also rejected her request. She then negotiated with Chief Inspector Lau Yip-shing, who was a member of the command team of the operation. This request was also rejected. The boy was finally arrested at about 12:00 p. m. on December 18 and later found out at the Kowloon Bay police headquarters. His freedom was denied for 27 hours beginning with the confinement of the protesters at 10:00 p.m. on December 17 and ended at around 1:00 a.m. on December 19 when all of the female protesters who had been arrested were released.

60. It is unknown on what legal grounds the police arrested and detained this small boy rather than releasing him, for it is believed he was not involved in any violence. The arrest and detention of the child are in violation of Article 37 of the *Convention on the*

*Rights of the Child (CRC)*. Article 37(b) clearly states, “No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.” Article 37(c) also states, “Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.”

### **4.3 Inhuman Treatment by the Police during the Confinement on Gloucester Road**

61. During the confinement of the protesters on Gloucester Road, several cases of inhuman treatment of the protesters by the police were noticed.

#### **4.3.1 No access to a toilet**

62. The protesters could not access a toilet for many hours beginning at about 10:00 p.m. on December 17 and ending with their arrests, which in some cases took until the afternoon of December 18. 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 even though a public toilet was located nearby. Some protesters were even verbally abused by the police when they made these necessary requests. Some examples are described below.

*Ms. Park, a Korean female protester, urgently wanted to go to a toilet at about 10:00 p.m. on December 17, but the police blocked her even though she could see a public toilet in front of her. She repeatedly requested access to the toilet, which was turned down by the police each time. She only could use a toilet after her arrest on the morning of December 18. She said that holding her urine for so many hours was like a form of torture.*

*Ms. Chan, a local observer, reported that protesters demanded to use a toilet many times, but their requests were in vain. She reported, for instance, that when a Hong Kong female protester demanded access to a toilet at about 4:00 a.m. on December 18 the police replied, “You find a pole to do it by yourself!”*

#### **4.3.2 No food and water during the confinement**

63. No food and water were provided to the protesters during these long hours, except for a limited amount of biscuits that were reportedly provided by the police at around 3:00 a.m. on December 18 after repeated requests by the protesters. Thus, the demonstrators,

who did not have dinner or breakfast, suffered from hunger and thirst. Some examples are provided below.

*Mr. Cha, a Korean farmer, reported that he suffered from hunger because he had not eaten any meal for one day since he was confined on Gloucester Road and the police only provided food on the late afternoon of December 18.*

*Mr. Hong, a Korean farmer, reported that he saw the police eat food while the protesters suffered from hunger and thirst.*

64. The police also blocked relief action initiated by other people. A Filipino activist, together with about 50 people, collected two cartloads of bottled water, fruits, chocolates and cookies for the protesters on Gloucester Road. However, when they approached Marsh Road in Wan Chai, two rows of policemen with shields blocked them and prohibited them from going further. They explained to the police that they just wanted to deliver food and water to the protesters, but the commander of the police turned them away without a word.

#### **4.3.3 No blankets despite the cold weather**

65. While it was warm during the daytime on December 17, the temperature dropped to 13 degrees Celsius in the evening. As the protesters did not expect such cold weather, they were not equipped with warm clothes. However, no blankets were provided to the protesters who suffered from the cold weather at night. Some examples are given below.

*Mr. Kim, a Korean Catholic priest, reported that he had never experienced such cold weather in his life, and it was worse because the protesters were not provided with any food, water or blanket.*

*A Hong Kong local observer reported that when some Korean protesters played soccer with a plastic bottle to warm their bodies a female commander told the police, "Show them [the protesters] some response." The police then made a threatening noise by hitting their shields on the ground in order to stop their attempts to keep warm.*

#### **4.3.4 Insufficient medical attention at the hospital**

66. In addition to being cold and tired, several demonstrators had a fever and fell sick. Some others were also injured by pepper spray and tear gas in an earlier confrontation. However, no medical attention was provided to them despite their requests.

67. Furthermore, there were reports that many injured protesters were arrested at the hospital. The medical officers allowed the police to enter the hospital and arrest the injured protesters. HKPA first aid helpers reported that approximately 40 protesters were in this position, after being sent to both Pamela Youde Nethersole Eastern Hospital and

Ruttonjee Hospital. HKPA later found that many of those arrested did not have complete and proper medical treatment. Some examples are noted below.

*Mr. Huan, a Korean protester, complained that he was taken away by the police at Ruttonjee Hospital before a doctor finished treating him on the evening of December 17. He still had a severe pain on his side, chest and shoulder and difficulty breathing, but he was only given a painkiller 10 to 15 minutes before seeing a lawyer at 3:35 a.m. on December 18.*

*Mr. Yoon, a Korean farmer, was also arrested by the police at Ruttonjee Hospital before the completion of his medical treatment. He complained that he was assaulted by a police officer on his thigh and chest with a club in a police bus while being taken to a police station.*

*Ms. Wong from Taiwan complained that a doctor did not provide proper treatment before she was taken away by the police. Even though the doctor told her that her condition was OK, she later found that her knee was cracked or fractured when she was examined at a hospital in Taiwan after her return. She was not provided any medical treatment during her detention.*

68. In another case, the police gave a translator only a few seconds to speak with a protester before taking the patient away.

69. Even though the police can arrest a person if they have reasonable suspicions about them, arresting injured people before proper medical treatment is completed is cruel and inhuman treatment, which is prevented under Article 7 of the ICCPR. This also breaches Principle 24 of the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, which states, “A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary.”

#### **4.3.5 Lack of translation of police warnings or announcements**

70. 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. Some illustrations are offered below.

*Mr. Cheng from Taiwan said that he heard the declaration of arrest on the morning of December 18, but he could not understand it because it was announced in Cantonese, English and Korean.*

*A Japanese protester said that he could not understand the police’s announcement because there was no Japanese translation.*

71. In addition, many protesters complained that they could not hear the declaration of arrest at all, and the police did not show an arrest warrant and did not inform the protesters of the reason of their arrest as well as the places they were taken.

#### **4.3.6 Excessive use of plastic straps**

72. Most of the protesters were handcuffed with so-called plastic straps 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 straps were too tight, people suffered severe pain. Some examples are highlighted below.

*A Thai protester's hands were handcuffed with a plastic strap behind his back at around 6:00 a.m. on December 18 when he was arrested. Since he experienced severe pain, he complained to the police, who simply ignored him. When the police ordered him to sit down, he could not do so properly because he was a large man with his hands cuffed behind his back. The police, however, ignored his difficulties, and he could only sit down when his Thai friends helped him.*

*A Hong Kong lawyer who visited Kwun Tong police station on December 18 also reported that several demonstrators complained that the plastic straps on their wrists were too tight. In one case, a woman showed the lawyer that her plastic strap was so tight that it pressed hard on her pulse and the flesh around her wrist and that her hand was swollen. Despite the lawyer's strong protest to remove the strap from her or to replace it with another, the police refused to do so, saying that it was to identify each detainee and that he had no authority to remove it because it was put on the woman by another police team.*

#### **4.3.7 Unnecessary force during the process of arrest**

73. The police used unnecessary force during the process of arrest, even to people who voluntarily cooperated with the police. Some examples are provided below.

*Ms. Lee, a Korean labour activist, reported that during the process of arrest she saw one person in another bus cuffed at his ankles with metal. When she enquired to the police, they replied that they did so because he refused to be handcuffed with a plastic strap. She also reported that while she was waiting at a police station parking lot she witnessed some Koreans being pushed and beaten by the police in a police bus. When she and other protesters protested by shouting, the police quickly closed the curtains and even turned off the light inside the bus.*

74. In addition, according to the testimonies collected from Korean female protesters who were detained at the Kwun Tong police station, one female and one male demonstrator



were slapped by the police when they refused to be handcuffed without notice. In another case, when one woman requested that her handcuffs be loosened, four police officers rushed toward her, grabbed her arms and head and took her away from the crowd.

#### **4.3.8 Unreasonably long process of arrest**

75. 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 protesters contributed to the suffering of the demonstrators. Some examples are given below.

*Mr. Lyu, a Korean Catholic priest, was arrested on Gloucester Road at about 10:00 a.m. on December 18 but was detained with other Koreans in a police bus for about 10 hours without being taken to a detention facility. He was finally put into a cell at about 10:00 p.m. on December 18.*

*Mr. Cheng from Taiwan was arrested between 6:00 a.m. and 7:00 a.m. on December 18 and relocated three times after his arrest. He said the police did not inform him of the name or location of the place where he was taken. He was finally detained at a third place at around 1:00 p.m.*

*A Japanese activist was arrested at about 8:00 a.m. on December 18. He was taken to three police stations without any explanation. At the second police station, he saw the arrest warrant written in English and Cantonese and was informed of a custody declaration at around 1:00 p.m. It took more than six hours until he was finally detained at the third police station at 2:30 p.m. Since his arrest, he was handcuffed with a plastic strap for eight hours until 4:00 p.m.*

#### **4.4 Violation of International Human Rights Standards**

76. The inhuman treatment suffered by the protesters during the arrest at Gloucester Road are in violation of Article 7 of the ICCPR, which states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,” and Article 10 of the ICCPR, which states that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

77. In addition, Article 9(2) of the ICCPR states that “anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.” However, as illustrated above, in most cases, this basic right was not observed by the police. Overall, the police action described in this section breaches the right of peaceful assembly of the WTO protesters and their right to liberty, which are separately guaranteed under Article 21 and Article 9 of the ICCPR.

## **5 Detention**

78. After the mass arrest, the police detained the protesters in police stations all over Hong Kong and the Kwun Tong Magistrates' Court. All of the female detainees and the Korean child – 188 people – were released at around 1:00 a.m. on December 19. The police released all of the remaining detainees – 994 people – in the late evening of December 19, except 14 detainees who were kept for further investigation.

79. Many detainees complained after being released that they were subjected to inhuman and degrading treatment during their detention and deprived of their basic rights according to international human rights standards.

### ***5.1 Inhuman and Degrading Treatment during Detention***

#### **5.1.1 Long hours in police vehicles before put in detention cells**

80. 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 10 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.

#### **5.1.2 Detention cells seriously overcrowded without adequate sanitary facilities**

81. In most places of detention, the cells were overcrowded with some cells having more than 30 people. People sat on cold cement floors and could not lie down to rest or even stretch their legs, let alone to sleep. During detention, many people had to share one toilet, which was inside the cell and openly exposed to others. There was no privacy at all. There also was not an adequate amount of toilet paper or sanitary napkins for women.

#### **5.1.3 Kept in cold conditions without socks and enough blankets**

82. The weather was very cold on December 18—about 13 degrees Celsius. However, the police officers did not provide enough blankets for the detainees. According to a detainee, “Thirty-one people were detained in a cell about 12 to 15 square metres. Only five blankets were given to them.” Moreover, detainees were asked to remove their socks and remain in a cold concrete cell. It was ill-treatment to leave the detainees barefoot in such cold weather.

#### **5.1.4 Humiliating search and seizure of female detainees**

83. Many female detainees were forced to take part in a humiliating search-and-seizure procedure of their personal belongings. Police officers, for instance, asked some women 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.

#### **5.1.5 Humiliating treatment in using toilets**

84. Some 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. The experience of one detainee is described below.

“At about 7:00 a.m., we finally got off the vehicle; and when we asked the police to allow us to go to the toilet, they got angry and handcuffed our hands. An interpreter provided by the police told us that we should remain handcuffed if we wanted to go to the toilet. We were then tied with a rope and taken to the toilet. A female officer told me that she would even come inside the toilet room and watch me. I asked her to wait outside or at least turn around, but she threatened to take me away if I did not want to use the toilet. I felt so humiliated, but unavoidably the female officer stripped my pants and underwear, and I had to relieve myself in front of her.”

#### **5.1.6 Detainees complain of being beaten by police officers**

85. A male detainee complained of being beaten and slapped by police officers in a police bus. After being arrested and put on a bus, he repeatedly requested to go to the hospital for medical treatment. He described in his statement that “around 20:50 [on December 18], I couldn’t stand it any more and attempted to stand up, and I cried, ‘I have to go to the hospital.’ Soon three policemen sprang at me and seized me by the arms. They made me kneel down by force, hitting my head, pressing my eyes and nose and strangling me. After that, they held my arms again and pushed me in the belly and subdued me. In this situation, they also insulted me by slapping me on my cheek.”

86. A female detainee complained that she was beaten by a police officer in a place of detention as she refused to be fingerprinted. According to her statement, “The police officer at the desk forced me to be fingerprinted. . . . I resisted and cried at which time the police officer at the desk beat me with his fist twice on my side and shoulder.”

### **5.2 Violation of International Human Rights Standards**

87. According to Article 10(1) of the ICCPR, “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”; and Article 10 of the *Standard Minimum Rules for the Treatment of Prisoners* states, “All

accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.” Article 12 of the *Standard Minimum Rules for the Treatment of Prisoners* adds that “the sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.”

88. The treatment of the detainees violated these basic principles though and infringed upon the inherent dignity of the detainees. In some cases, it caused traumatic effects to the detainees who still cannot forget their dehumanising experience. The police might blame the massive number of detainees for what happened to the detainees. However, it was the police which made the decision to arrest such a large number of people. They thus had the responsibility to make arrangements for the proper treatment of the detainees.

89. Moreover, 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 ministerial conference on December 18. This claim must be examined as it constitutes a serious violation of the protesters’ fundamental rights to assembly and expression.

### **5.3 Deprived of the Basic Rights of Detained Persons**

#### **5.3.1 Right to be notified about their rights, their places of detention and charges**

90. According to Article 9(2) of the ICCPR, “Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

91. Many protesters complained though 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. Other protesters reported hearing no warning at all while on Gloucester Road. Even after being taken to various police stations, the detained protesters were not clearly instructed about their legal status and what the charges were.

92. When the protesters were taken to the detention places, they were given a document entitled “Notice to a Person under Investigation by, or Detained in the Custody of the Police” and asked to sign it. As the notice is written in English and Chinese, without the assistance of interpreters, many protesters from Asian countries did not know its content.

93. In addition, the police officers did not tell the protesters where they were detained. According to Principle 12 of the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, detainees should be told “precise information concerning the place of custody.”

### **5.3.2 Right to contact families and lawyers**

94. According to Article 92 of the *Standard Minimum Rules for the Treatment of Prisoners*, “An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.”

95. 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. Many people made requests to police officers to contact their families or friends, but these requests were denied. 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. For detainees from overseas, there was no notification that they had the right to contact their consulates.

96. In one case, a detainee repeatedly asked to make a telephone call to his family overseas and was rejected each time. Finally, after he strongly demanded to make a telephone call, the police allowed him to make a local call to his friend in Hong Kong. During the telephone call, police officers listened to his conversation with his friend through the speaker of the telephone. When he mentioned or was asked about his arrest or his condition in detention, such as the place of detention, he was stopped by police officers from talking about them.

### **5.3.3 Right to access to legal counsel**

97. A detained person is entitled to have the assistance of a legal counsel, especially for detainees from overseas who do not know their rights under domestic laws. However, 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 protesters 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.

### 5.3.4 Right to be provided with interpreters

98. 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 with them. Not only was there a lack of interpreters for the Korean detainees, who were the majority among the detainees, but there was also a lack of interpreters for detainees of other languages. For example, a Taiwan detainee and a Japanese detainee were not provided with interpreters throughout their detention.

### 5.3.5 Right to medical treatment

99. During the mass arrest and detention described above, one serious problem that arose was that protesters were deprived of their rights to medical treatment. On numerous occasions, detainees reported illnesses or injuries that needed medical attention. The requests took two forms: some detainees requested to go to the hospital; others requested to take medicine they had brought with them. Police officers, however, refused to respond to most of these requests. The outcome of denying these requests could be greatly detrimental to the health of the detainees.

100. Some of the cases are outlined below.

*At Wong Tai Sin police station, a protester whose eyes were affected by tear gas requested treatment on his eyes, but he was ignored by the police. Only after a complaint by a lawyer did the police provide assistance to treat his eyes.*

*A detainee requested several times for treatment for a cold and fatigue but was refused. Only after being detained for six days was he able to get medicine and treatment after a request was made by his lawyer.*

*A detainee who has asthma wanted to keep his medicine and inhaler, but a police officer rejected his demand and took them away. Then he was transferred from one police station to another. When a lawyer helped him to ask for them, the police could not find them. Finally, he got some medicine, but his inhaler was never returned to him.*

101. The most serious case, however, concerns a HIV/AIDS patient who was denied from taking his own medicine. The following is his statement:

*“I am a HIV/AIDS patient. I was denied access to my own medicine. At 10 p.m. on December 18, it was time for me to take medicine. The police asked me about my request to take medicine through a translator. I explained I am a HIV/AIDS patient and that I need to take medicine every 12 hours. The medicine included DDI, IVA viron and 3TC. The police did not allow me to take my own medicine in my cell. They said, according to the law of Hong Kong, I was not allowed to take medicine in the cell.*

“Then they asked me to go to the hospital. I refused as I have my own medicine which is very important to my survival. However, the police insisted I have to go to the hospital to have a medical check-up so I went with them. I don’t know why they chained me though with my hand at the front, at my waist and at my back. They chained me as if I were a serial killer. They sent me to a hospital ward which was for criminals as I had to pass through many gates. I also saw people who seemed to be criminals staying in that ward. Then they told me to change into a patient’s gown.

“I then met with a doctor. I explained to him I am a HIV/AIDS patient. The doctor said he did not know anything about HIV/AIDS. . . . Then the doctor told me to go back to the detention centre, and I went back to the cell around 2 a.m. [on December 19].

“After that, the police called 14 of us to the interview room. They searched us and took away all of our belts, wallets and necklaces. After they finished, the police left me alone in the interview room and did not allow me to go back to my fellow detainees. They even gave me a mask at 10 a.m. [on December 19]. I could not understand why the Hong Kong police were so ignorant about HIV/AIDS patients. The police even put on surgical gloves when they gave me anything.

“I am a HIV/AIDS patient. The medicine I take has a very specific function to support my immune system to prevent viruses from developing. I have to take the prescription on time and continuously. I am very vulnerable to any disease. I can be attacked by even a very minor and common disease. If I cannot take the medicine on time, my immune system will deteriorate so the prescription will not work anymore. Then I have to change to another prescription.

“Before I came to Hong Kong, I was already worrying that the prescription I was taking could not last very long as we are still fighting for the patent issue in Thailand. The medicine for AIDS is so expensive so we have limited access to effective drugs. The prescription that I used was not the best one.

“The last time I took it was around 9 a.m. on December 18 when I was in the police van. Then the Hong Kong police denied me access to my medicine. Until I was released, the Hong Kong police did not give me back my medicine, and no one from the police department told me what will happen next. Although I did not understand the law of Hong Kong, shouldn’t it be the basic human rights of a patient to have access to his medicine?

“After I came back to Thailand, I found the prescription did not work anymore. I needed to change to another prescription. However, another prescription got to be very expensive. I cannot afford it. Now I feel very hopeless and depressed.”

102. According to Article 22(2) of the *Standard Minimum Rules for the Treatment of Prisoners*, “Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.”

103. In the case above, however, the police took away the medicine of a HIV/AIDS patient that was very important to the maintenance of his health. Although the police brought him to the hospital, the doctor did not know about HIV/AIDS. It was the duty of the police and the hospital to arrange for the detainee to see a doctor familiar with HIV/AIDS. As a result of the failure of the police and hospital to take further action, the health of the detainee was greatly endangered.

### **5.3.6 Right to religious freedom**

104. The right to religious freedom of a person should be respected, even if the person is in detention or in prison. According to Article 42 of the *Standard Minimum Rules for the Treatment of Prisoners*, “So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.”

105. Some detainees complained that police officers did not respect their right to religious freedom. In one case, the police took away a detainee’s amulet of Buddha that was a religious symbol for him. In another case, the police took away the veil of a female detainee who is a Muslim.



## **6 Complaints System**

106. The system in which complaints are made against the police is seriously flawed. It operates in a totally unfriendly manner, lacks independence and is biased in favour of the police. The biased nature of the current process violates Article 3 of the ICCPR, which states that it is the government's responsibility "to ensure the equal right of men and women to the enjoyment of all civil and political rights."

### ***6.1 Not User-Friendly***

107. No information on how to make complaints against the police was given to the people arrested. Many protesters, aggrieved by police measures, complained that they did not know how to lodge their complaints against the police. Such a problem is magnified by the language barrier. The long time taken for lodging complaints, and the even longer time for an investigation, have also made the complaints system very difficult to use.

### ***6.2 Complainants Deterred by Police Investigating Police***

108. At least one person whose head was injured in Wan Chai when he was hit from behind with a baton by the police did not lodge a complaint for unlawful battery. He had been behaving peacefully before and at the moment of the attack. He has not lodged a complaint because he has no faith in the complaint system. He knows that all complaints are handled by the police themselves and justice is hard to obtain in such a system. He also fears that his complaint will trigger retaliation by the police.

### ***6.3 Complaints against the Police Not Properly Received and Handled***

109. In at least one case where the complainant approached the police to lodge a complaint, he was called several times, and officers tried to discourage him from making a complaint. Although he believed that by talking to the police he had already lodged his complaint, he was called again and again. Every time he had to summon his courage to resist the pressure of the police and their "explanations" and had to repeat his complaints. When the police realised that he could not be discouraged, attempts were made to mislead him to have his case handled through an "informal resolution." He had almost been misled by the police to accept an informal resolution until he realised there would not be any proper investigation of his complaint through this process.

110. From this experience, he perceives one truth about the police complaint system in Hong Kong: it is biased in favour of the police, and the whole process is to discourage people from making complaints and to make their efforts fruitless. His case also

highlights the lack of monitoring of these improper telephone calls by officers from the Complaints against Police Office (CAPO) to complainants or to those intending to lodge complaints.

#### **6.4 Statement Taken by CAPO and Sub Judice Principle Unfairly Exploited**

111. Since complaints against the police are handled by the police themselves, a statement of a complainant taken by CAPO is made available to the police officer in charge of the case against the complainant in any criminal prosecution against him. Most complainants are shocked to learn that their statements against the police can be used against them instead. Worst of all, these statements are taken by the police who may be biased in favour of their colleague-complainees.

112. The fact that a complainant has the choice not to make his statement until any case against him has concluded offers little comfort to the complainant because the investigation of his complaints, if at all, will be delayed for months. Complainants who do not live in Hong Kong will thus have serious difficulties making their complaints.

113. When there are complaints between a police officer and a civilian, the civilian will be at a disadvantage most of the time because he will be charged first. Under the *sub judice* principle, once a charge is laid by the police against a complainant, an investigation into his complaint against the police will be postponed by CAPO until the case against him ends. This practice is still followed even though the complaints themselves against the police are accusations of criminal acts. It is a complainant's nightmare when the police officers that are the subject of the complaints fabricate stories to accuse the complainant of assaulting or resisting police officers or of suffering wounds due to his efforts to escape arrest.

114. In short, the system of police investigating police is grossly unfair to the WTO protesters.

## **7 Recommendations**

115. The committee should urge the Hong Kong government to carry out a thorough and independent inquiry into the human rights violations that occurred during the mass arrest of the WTO protesters and their detention by the police on December 17 and 18, 2005.

116. The committee should urge the Hong Kong government to carry out a comprehensive review of the police's guidelines, methods and use of force and weapons for policing demonstrations and public assemblies to ensure that they comply with the ICCPR.

117. The committee should urge the Hong Kong government to set up an independent complaint mechanism against the police.

## Appendix A: Map of Wan Chai



## Appendix B: Chronology of Events: December 17, 2005

According to a Hong Kong police report, 105 protest actions took place from December 11 to December 18, 2005. All of the procession organizers had either official letters of no objection from the police or had informed the police prior to commencing their activities. Because of this notification, the police were able to facilitate traffic control for all of the processions that started from Victoria Park. Most of the marches went to the cargo handling area.

The police reported a minimum number of confrontations throughout the entire week. Before December 17, protesters had expressed their determination to stage a protest in front of the convention center through the media. The strongest confrontations took place on December 17, after the protesters were informed that the WTO negotiations had entered into a negative stage of development.

Some of the main events that happened on December 17, from 3:45p.m. until the removal of protesters by police vehicles, are shown in the table below. Important areas have been indicated with the characters A – H on the map included in Appendix A.

Time	Location	Event	No of people involved
December 17, 2005			
	Victoria Park (A)	All of the protest actions started from Victoria Park. Several processions took place on this day. They were arranged to leave the park group-by-group. The earlier groups included fishermen, catholic groups, and students. The last, and the largest, group was the peasants.	
4:00 p.m.	Victoria Park (A)	The peasant's march leaves Victoria Park.	1600
4:00 p.m.	Hung Hing Road (B)	There were not more than 10 protesters challenging the police barricade at Hung Hing Road. This group of protesters acted independently from all of the marches. Hundreds of mass media and alternative media packed around the protesters. Over 500 observers surrounded this group.	10

4:00 p.m.	Hung Hing Road (B)	The police deployed pepper spray on the protesters. In fact, the police used pepper spray in all confrontations from December 13 onwards. There was no warning.	350
4:00 p.m.	Hung Hing Road (B)	The protesters used a plastic chain to challenge the police.	10
4:15 p.m.	Hung Hing Road (B)	After 15 minutes, the firemen suddenly shot a water canon on the protesters, media and observers without any warning.	350
4:25 p.m.	Hung Hing Road (B)	After 10 minutes, the firemen handed the fire hose over to the policemen.	350
		The protesters continued to challenge the police by using banner poles to hit on the shield of the police. The spray from the fire hose hit everyone within a 30-metre radius in front of the barricade. The confrontation lasted for almost one hour.	10
4:45 p.m.	Marsh Road and Lockhart Road junction (C)	The group went to Marsh Road to join the peasant's march.	
4:30 p.m.	Marsh Road and Lockhart Road junction (C)	When the peasant's march reached the Marsh Road and Lockhart Road junction, the front part of the rally broke through the barricade and marched toward the Tonnochy Road and Lockhart Road junction.	100
5:30 p.m.	Tonnochy Road and Lockhart Road junction (D)	The second confrontation happened at Tonnochy Road. There were two police trucks and a few hundred police officers at the junction. Another 100 media representatives were at the barricade. There was a very strong confrontation between the police and protesters at around 5:30p.m.. The police used an enormous amount of pepper spray. The spray was discharged directly into the faces and eyes of the protesters. There was no warning.	10
5:30 p.m.	Tonnochy Road and Lockhart	Around 50 protesters at the front of the group took very strong physical	50

	Road junction (D)	action and used a fire extinguisher, grabbed from the police, to confront the police.	
5:30 p.m.	Tonnochy Road and Lockhart Road junction (D)	The other protesters were mainly dancing and singing while waiting to continue marching towards the convention centre. Many police officers used batons to beat up the protesters. Many protesters ran back to Lockhart Road.	500
5:50 p.m.	Lockhart Road and Hennessey Road junction (E)	Since the protesters at the front did not break through the barricade, this group of protesters left the junction and followed the other group to Hennessey Road.	300
6:00 p.m.	Fleming Road and Harbour Road junction (F)	The first main group of protesters arrived at Fleming Road. There were a few police lines stationed at this barricade.	650
6:00 p.m.	Fleming Road and Harbour Road junction (F)	Around 50 protesters took away the iron fence barricade and directly confronted the police.	50
6:00 p.m.	Fleming Road (between Harbour Road and Gloucester Road)	The rest of people were resting at Fleming Road. One hundred media were present.	600
6:00 p.m.	Fleming Road (between Harbour Road and Gloucester Road)	The police used an enormous amount of pepper spray on the faces and eyes of the protesters. No warning was given.	~
7:00 p.m.	Fleming Road (between Harbour Road and Gloucester Road)	Another 100 protesters arrived.	100
7:00 p.m.	Fleming Road and Harbour Road junction (F)	Around 30 protesters used the iron fence to push towards the police.	30

7:20 p.m.	Fleming Road (between Harbour Road and Gloucester Road)	Another 350 protesters arrived.	350
7:30 p.m.	Fleming Road (between Harbour Road and Gloucester Road)	The majority of protesters rested at Fleming Road.	1100
7:30 p.m.	Harbour Road (Near Fire Station) (G)	Around 30 protesters pulled down the wooden surrounding barriers and broke into the barricade. The police started to shoot beanbag rounds and teargas. There was no warning of any kind.	30
7:30 p.m.	Harbour Road (Near Fire Station) & Fleming Road (between Harbour Road and Gloucester Road)	The crowd dispersed. Protesters, media representatives and observers were all injured by the tear gas.	1100
7:30 p.m.	Gloucester Road (H)	Those who could run went back to Gloucester Road. Many found it difficult to breathe and lied down on Gloucester Road.	1100
7:40 p.m.	Gloucester Road (H)	After 10 minutes, protesters gathered at Gloucester Road to rest and to stage a sit-in protest. Many media representatives came back to Gloucester Road and continued reporting. Many citizens came to watch the sit-in protest.	1100
8:00 p.m.	Hennessy Road	Around 8p.m., members of the Korean Catholic Farmers Movement (KCFM) were stranded at Hennessy Road. They came from the Causeway Bay direction. They could not go back to Causeway Bay because the police had blocked the road. They asked the police where they could join with the other protesters at Hennessy Road. The policeman showed them the direction of Fleming Road.	150
9:00 p.m.	Gloucester Road (H)	The KCFM protesters mentioned above arrived at Gloucester Road	150



		around 9:00 p.m.	
10:00 p.m.	Gloucester Road (H)	Over 1200 protesters were surrounded by the police. Most of the protesters were sitting down on the road, singing, dancing and shouting slogans.	1200
10:00 p.m.	~	Dick Lee Ming-kwai declared that the police had rounded-up 900 people on Gloucester Road.	~
December 18, 2005			
3:30 a.m.	Gloucester Road (H)	The first group of protesters, all female, were led to the police vehicles. Some of them were carried. Most of them cooperatively walked to the vehicles themselves.	60
1:00 p.m.	Gloucester Road (H)	All of the protesters were removed from Gloucester Road.	

## Appendix C: Photographs



Figure 1: Police shot water canon at crowd.



Figure 2: Water canon used on protesters.



**Figure 3: Pepper spray directed at face.**



**Figure 4: Policeman directs firearm at crowd.**



**Figure 5: Beanbag round injury.**



**Figure 6: Ms. Wong surrounded by police.**



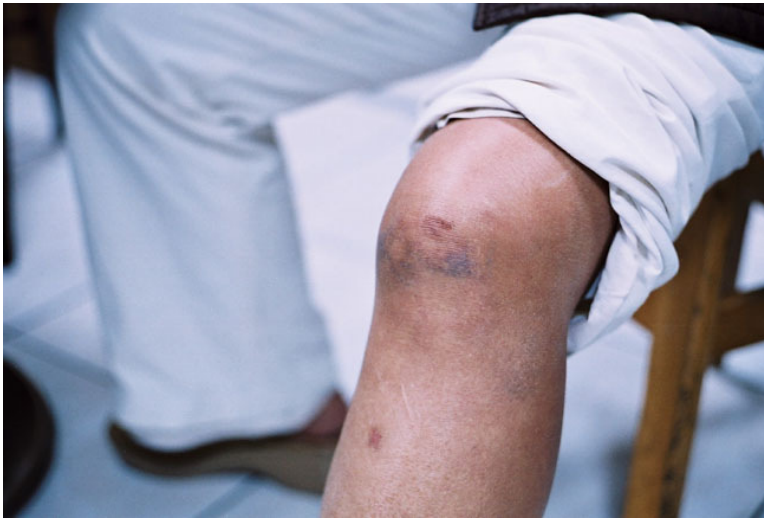
**Figure 7: Ms. Wong continues to be beaten by police.**



**Figure 8: External bruises as a result of beatings.**



**Figure 9: External bruises as a result of beating.**



**Figure 10: An injured knee.**



**Figure 11: A police man grabs a protester.**



**Figure 12: Protesters are circled and put into police vehicles during the arrest.**

# Appendix D: Questionnaire

Report Form

**Confidential**

Date of Report: \_\_\_\_/\_\_\_\_/\_\_\_\_

D M Y

Report Number: Q-\_\_\_\_\_

## Notes/Basic Guidelines:

1. It is recommended that this questionnaire be used as a guideline to prepare a detailed statement. The statement can be completed as a narrative or interview form. The purpose of this exercise is to collect accurate information in as detailed a form as possible. Therefore, please pay attention to the details required in each question, especially date, place and time of incidents. In other words, when a particular incident is cited, please try your best to recall the date, time and location. If the location (for example, the name of a road) is not known, please try to describe the location through landmarks or signboards, etc.
2. Please also try to mention any other persons who witnessed what you have experienced in each incident. If you know the person, please provide his/her name and contact information.
3. If you have taken any photos, video recordings, voice recordings, of any of the incidents mentioned in this questionnaire or related to the protests, especially on 17 December, please try to attach copies of such in a CD.
4. If you have undergone any medical treatment in Hong Kong or in your own country due to any injuries or sickness suffered due to police action in Hong Kong, please attach copies of them.
5. When you are referring to police officers related to any of the incidents you are going to describe, please try to identify them as much as possible. If you remember their serial numbers attached to their uniforms, please state that number for each instance. If not, please describe the physical appearance as much as possible of the police officer concerned.
6. Please mention any other incident in relation to police action and/or abuse on 17 December and afterwards which may not be covered in this questionnaire.
7. Please use supplementary sheets if there is insufficient space. Also use supplementary sheets for any additional information not included in this questionnaire, indicating the source of information.
8. Please send the completed questionnaire to Mabel Au at [hkpa.documentation@gmail.com](mailto:hkpa.documentation@gmail.com) as soon as possible.

**A. General**

1.1 Surname: \_\_\_\_\_ First name(s): \_\_\_\_\_

1.2 Male  Female  (Please check a box)

1.3 Date of birth: day \_\_\_\_\_ month \_\_\_\_\_ year \_\_\_\_\_

1.4 Age at interview: \_\_\_\_\_

1.5 Place of birth: \_\_\_\_\_

(town/city, province/county/state, other indications)

1.6 Present address and telephone: \_\_\_\_\_

1.7 Contacted Address (if other than above): \_\_\_\_\_

1.8 Civil/family status:

Single  Married  Divorced  Separated  Widowed

(Check the box which is most applicable)

1.9 Occupation or profession (please specify):

Artisan  Farmer  Government employee  Journalist  Merchant

Military  Professional  Student  Unemployed  Other (please specify:)

(Check the box which is most applicable)

2.10 Education:

Primary school  Secondary school  University  Graduate study

(Please check the box indicating the highest level of education attained)

2.11 Membership/support of other organizations (please specify):

Association of students: \_\_\_\_\_

Community association: \_\_\_\_\_

Human rights group: \_\_\_\_\_

Peasant movement: \_\_\_\_\_

Political party: \_\_\_\_\_

Popular movement: \_\_\_\_\_

Religious community: \_\_\_\_\_

Trade union: \_\_\_\_\_

Youth group: \_\_\_\_\_

Other: \_\_\_\_\_

**B. Police behaviour and treatment during confrontation on Saturday December 17 march**

1. What was your observation of the behaviour of the police during the march?



2. Where and what time did you notice that something was wrong? What did you see happening? Describe what you saw and experienced of this incident.
3. Did you see how the confrontation with the police started? If so, when and where? Please describe in detail.
4. Did you try to leave the location of the confrontation and if so what time? Did you succeed and if so what time? If you not did not succeed, why not?
5. Were you confined or blocked by the police on the road? If so, what time and where?
6. How did the police confine/block you? Did they use any action, words? Please describe.
7. If the police used any words to address you, did you understand what they were saying?
8. What was the condition during confinement by the police on the road? Please describe the physical conditions, weather conditions, toilet facilities, access to food and drink. Were you warm or cold? If you were cold, did you ask for a blanket? At what time and where did you make this request, and what was the response?
9. Did you request access to a toilet or food and drinks from the police at this time; if so, around what time did you do so, and what was the response of the police?
10. Did you suffer any physical or any other kind of injury during the confinement? Please describe how, the time, the location that happened and what injuries you suffered.
11. If you were injured, were you administered any first aid? If so what time, where and by whom?
12. Were you subjected to any medical examination in Hong Kong or back home? If so, please provide details (where? when? [date, time] by whom? findings? reports? photos?).
13. Did the police broadcast any warnings? If so, what was the warning? Did you clearly understand any such warning? Where and when were such warnings made?

### **C. Arrest**

1. **DECLARATION OF ARREST:** Did you hear police declaring that people would be arrested? If so, what was the reason for such arrest in such declaration? Which language did they use for such declaration? Where and what time did the police make such declaration? Was such declaration made in your own language? If so, which language?
2. If an arrest has been carried out, what time and which location were you arrested? Were you shown an arrest warrant? If there was an arrest warrant, which language was it printed in, and was the arrest warrant read to you in your own language?
3. Were you handcuffed? Chained? Tied with a plastic strap? If so, what time and where did it occur? Please describe.
4. If you were handcuffed or your hands tied, were your hands cuffed or tied from the front or back?

5. How long were you handcuffed or had your hands tied? When were your handcuffs or plastic straps removed?
6. Did you suffer any injury due to the handcuffs or plastic straps? If so, did you complain to the police? If so, what time and where? How many times did you complain? What was the response from the police? Did they remove the handcuffs or plastic straps? If so, what time and in which location? Were you given any medical treatment for injuries suffered because of the handcuffs or plastic straps? If so, when and where were you treated? Who treated you? What was the treatment?
7. Were you detained and brought to a police cell/holding centre/etc.? If so, which date and what time were you brought there?
8. Were you told which holding centre/or police station you were taken to? If so, when were you told so? If not, did you ask where you were being taken to, and what was the response?
9. If you were relocated, how many times were you relocated? From which place to which place were you were relocated and at what time did this relocation take place?
10. What kind of vehicle were you in? How long were you in the vehicle before you were brought to a holding center or police station?
11. What was the temperature inside the vehicle (cold, very cold, warm)?
12. Did you face any other discomfort when you were being transported? If so, please describe. Did you complain of such discomfort to any police officer? If so, what time? What was the response? Were any measures taken to relieve you of the discomfort?

**D. Torture, inhuman or degrading treatment during your arrest and detention and arrestees' rights**

1. When you were taken to the detention centre, were you given a notice entitled "NOTICE TO A PERSON UNDER INVESTIGATION BY, OR DETAINED IN THE CUSTODY OF THE POLICE, which should be given to an arrested or detained person by the Hong Kong police as soon as the detention and arrest takes place? If so, what time and where were you given that notice? Were the contents of such notice explained to you in English and/or your own language? If such notice was read to you in your own language, did a qualified interpreter hired by the police do so? If so, did you understand what the interpreter said? Did you sign at the bottom of this notice?
2. If you were not given such a notice in Question D.1 above, then were any of your rights told to you by any arresting or detaining police officer? If so, which officer (if you noted down the serial number of the officer) and at what time and where were you told of your rights?
3. Did you see any enlarged "NOTICE TO A PERSON UNDER INVESTIGATION BY, OR DETAINED IN THE CUSTODY OF THE POLICE" on the wall of the

detention cell/room/area in the police station? If so, did you inquire about the rights listed in that form from the police, and, if so, at what time, from whom and what was the response?

4. Did you need an interpreter, and did the police provide you with an interpreter of your own language?
5. After you were arrested, what time and where were you given the first meal and drinks by the police? What was your meal? Did the police make any inquiry in relation to any dietary requirements before giving you such a meal? Where did you consume the meal? Did you have sufficient space to consume your meal? How many times did you get food and drink during the whole period of detention?
6. Were you given drinking water? If so, how many times? Do you remember roughly the time of day when you were given water?
7. If you were not given water, did you request water? What time and where were you when you asked for drinking water, and what was the response?
8. What was the size of the cell where you were kept? Describe the physical conditions, the furnishings, toilet facilities, number of people in one space, sleeping conditions, etc.
9. What was the temperature in the cell? If cold, were you given any blanket? If so, what was the condition of the blanket? If you were not given a blanket, did you ask for one, and what was the response?
10. While in the cell, were you handcuffed or your hands tied?
11. What time did you make the first request to use the toilet, and what time were you actually allowed to use the toilet? How many requests did you make before you were allowed to use the toilet?
12. When you were allowed to use the toilet, were your hands tied? If your hands were tied, did you ask the police to untie them? If so, what was the response?
13. Were you provided with privacy when you used the toilet? If not, did you ask for it, and what was the response? If not, how was your privacy denied when using the toilet? Did any police officer stand by you? Did they watch you? If so, do you remember the serial number of that police officer?
14. What was the condition of the toilet (clean or dirty, smelly etc.)? Was the toilet inside the cell or outside? If the toilet was dirty, did you request the police to clean it? If so, what was the response, and who made such a response?
15. How many times were you allowed to use the toilet?
16. Were you feeling sick or suffering from an injury after being arrested? If so, please describe your sickness or injury in detail. Did you inform the police about your sickness or injury and the need to have medical attention? If so, what time and where did you inform them? To whom did you make such a request (if possible, identify the police officer by number or appearance)? What was the response? If you made many requests for medical attention, please describe how many requests were made and roughly the times of these requests and the response you received each time?
13. If you received any medical attention through the police, what time and where were you treated? Who treated you? What was the treatment? Was any medicine administered to you and, if so, what?

17. Due to lack of medical attention, did your condition deteriorate? If so, please describe what happened.
18. Did you request the police to allow you to contact a friend or relative during the period of your detention by telephone, fax or e-mail? Were such facilities made available at the police station at all? If so, what time did you make such a request and from whom? What was the response from the police? How many times did you make such requests? Please describe each circumstance in as detailed a manner as possible (time, to whom the request was made and the response you received).
19. Did you request a list of solicitors and their contact information in Hong Kong from the police? If so, when did you make this request and from whom, and what was the response?
20. Where you abused in any way by any police officer? If so, what was the nature of the abuse (please describe), and what time and where did the abuse take place? Who abused you (the name, number and rank of the officer or, if not, at least the physical appearance of the officer)?
21. Were you treated in a humiliating way while in detention? If yes, please describe how (e.g., women being asked to undress, etc.).
22. Were you interrogated while in detention by police officers? If so, what time and where were you interrogated? If in a room, what was the room number? Were you read your rights as in the “NOTICE TO A PERSON UNDER INVESTIGATION BY, OR DETAINED IN THE CUSTODY OF THE POLICE” in your own language by an interpreter provided by the police prior to such interrogation? Were you cautioned prior to any interrogation in your own language or told that you have the right to remain silent for any questions asked by the police?
23. Was the interrogation recorded in written, audio or video form? If recorded in written form, were the questions written down in your own language? If not, which language was used for these questions? Was a copy of the written statement/video/audio tape given to you? (If so, please attach a copy of it to this questionnaire.)
24. If the interrogation was not recorded, what were the questions asked, and what were the answers you provided to the police?
25. Who carried out the interrogation—uniformed police or plainclothes police officers? Did the officers reveal their identity (as to their name, rank, serial number and attachment) prior to being interrogated? If not, did you ask for such information, and what was the response?
26. Did you refuse to answer any questions? What happened then?
27. Was there a lawyer present while you were being interrogated?
28. Is any physical or psychological consequence of torture evident on date ? when the victim is being viewed? If so, what is it?

#### ***E. Various information***

1. Were you notified about how to make a complaint to the police or other authorities in Hong Kong about your arrest and detention? If so, did you report your case to the authorities to which authorities—the authorities responsible for the violation (please

specify), for example, the Hong Kong police, Hong Kong prison officer—judicial authorities, prosecutor, the court, etc.?

2. When (date and time) and where (location) did you make such a complaint?
3. If you have sent the complaint in written form, to which address did you send it (and, if you have a copy, please attach a copy of it to this questionnaire).
4. Did you receive response from the authorities? If so, when (date, time) and by whom?  
What was the response? (If in written form, please attach a copy).

Have you reported the case to an NGO in Hong Kong or in your home country? If so, please specify the name of a contact person and other information if possible. Did the above organization(s) take action?

# Press release

From HKPA and AHRC

March 19, 2006

## **The Submission to UNHRC on Human Rights Violations during the Policing, Arrests, and Detentions of the Protests against WTO MC6 in Hong Kong in 2005**

### **The submission**

This submission was prepared by the Hong Kong People's Alliance on the WTO (HKPA) and the Asian Human Rights Commission (AHRC) for submission to the 86th Session of the U.N. Human Rights Committee in consideration of the Second Report of the Hong Kong Special Administrative Region of the People's Republic of China in the light of the International Covenant on Civil and Political Rights (ICCPR). The hearing will take place on March 20, 2006 in New York, USA.

This 53 page submission is based on the factual experience of the HKPA during the preparation and implementation of People's Action Week (PAW), the activities running parallel to the WTO MC6. With respect to the human rights violations that occurred during the mass arrest and detention, this report is based on detailed statements received from approximately 45 individuals and groups representing a mixture of international and local participants, reports from activity organizers, reports from lawyers, police reports submitted to the Hong Kong Legislative Council (Legco), numerous interviews with action organizers and observations from Hong Kong citizens living near Kwun Tong Police Station. This report presents a comprehensive review of the human rights violations as a result of the policing before and during the WTO session, the excessive use of weapons, the mass arrest on December 17-18, the detention, and the Hong Kong complaints system.

### **Systematic tactic of undermining rights of protestors lead to Human Rights violation**

The WTO conference is famous for attracting protesters from all over the world. However, the set up of the conference did not provide legitimate space for dialogue between WTO delegates and members of the various social movements who came to protest. During the WTO MC6 thousands of protesters from Hong Kong as well as many other countries, particularly neighboring Asian countries, actively voiced out their concerns and demands on the streets. The Hong Kong community took sympathetic note of the arguments made by the protesters against those conducting their discourse in comfort.

However, the Hong Kong government systematically and repeatedly undermined plans for legitimate and peaceful demonstration prior to and during the WTO ministerial conference by delaying the approval of venue applications for activities, designating areas surrounding the venue of MC6 as closed areas, questioning hotels, camps and car rental companies about their arrangements with organisations taking part in the PAW, unduly delaying the approval of visas, interrogating overseas participants and making them stay in the airport for hours and raiding the office of an HKPA member among others. All of these government actions were taken in the name of so-called facilitation.

Furthermore, the government took unnecessary harmful action to crack down the protest on December 17, 2005 when it had become known that the negotiations in the WTO MC6 had entered a critical moment. Why were so many strong weapons used by the police during this confrontation? Was the mass arrest legitimate? Why did the arrest take so long, confining the peaceful majority of protesters on the street for such a long period? The protesters were prevented from participating in the final day of protest against the WTO MC6, at the same time as the conference delegates rushed out a so-called HK declaration. Is there any connection between the two?

The behavior of the Hong Kong police – particularly from the evening of December 17 to the morning of December 18 – has raised more questions regarding principles of law enforcement and human rights. For instance, one HIV AIDS patient, whose life was seriously endangered when deprived of his right to take his own medicine, shared his story. The HKPA is aware of others who were in the same situation. The HIV AIDS patient asked HKPA, “Why were the Hong Kong police so ignorant about HIV AIDS? Besides, shouldn’t it be my basic human right to take my own medicine as a patient?” The Hong Kong government has a responsibility to answer all of these questions.

### **Recommendations**

The protesters who have been detained, all local and overseas protesters and the Hong Kong public were expecting the Hong Kong government to give a response to all of the above questions. Disappointedly, the Hong Kong police report to the security panel of Legco on February 7, 2006 was far from satisfactory. The police only gave a few substantial data items, after hundreds of questions by Legco members. Therefore our demands have been included as recommendations in the submission. They include the following:

- The committee should urge the Hong Kong government to carry out a thorough and independent inquiry into the human rights violations that occurred during the mass arrest of the WTO protesters and their detention by the police on December 17 and 18, 2005.
- The committee should urge the Hong Kong government to carry out a comprehensive review of the police’s guidelines, methods and use of force and weapons for policing demonstrations and public assemblies to ensure that they comply with the ICCPR.
- The committee should urge the Hong Kong government to set up an independent complaint mechanism against the police.

### **Follow up by HKPA**

The HKPA is still doing fund raising for the protesters who are being prosecuted by the Hong Kong government with the local and international community. Moreover we are starting to raise funds for this HIV AIDS patient, and others, who were affected by the detention.

Speakers:

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