
INFORMATION NOTE

Academics' Views on the Existing Human Rights Framework in Hong Kong

1. Background

1.1 At the meeting of the Panel on Home Affairs (Panel) held on 9 June 2006, Members discussed the concluding observations of the United Nations Human Rights Committee (UNHRC) on the Second Report of the Hong Kong Special Administrative Region in the light of the International Covenant on Civil and Political Rights (ICCPR).¹ During the discussions, some Members and human rights non-governmental organizations (NGOs) expressed the view that the Government should consider the establishment of a human rights commission (HRC), as recommended by UNHRC², to protect and enhance human rights in Hong Kong.

1.2 Against this background, the Panel asked the Research and Library Services Division (RLSD) to conduct a research on whether the existing human rights framework in Hong Kong was compliant with the Paris Principles.³

1.3 To obtain the required information, RLSD has asked academics who are specialized in law, politics or public policies from various universities in Hong Kong and the Government⁴ to provide their views on:

- (a) whether Hong Kong's existing human rights framework is compliant with the Paris Principles; and
- (b) whether an HRC should be established in Hong Kong.

As of the publication of this information note, five academics and one academic research centre have responded to RLSD's enquiries.

¹ UNHRC considered the Second Report of the Hong Kong Special Administrative Region in the light of ICCPR at its 2 350th and 2 351st meetings, on 20 and 21 March 2006 respectively. UNHRC adopted the concluding observations at its 2 364th and 2 365th meetings on 30 March 2006.

² One of UNHRC's principal subjects of concern and recommendations is that "the Hong Kong Special Administrative Region should consider the establishment of an independent human rights institution compliant with the Paris Principles". See United Nations Human Rights Committee (2006).

³ The Panel also requested RLSD to study two issues, which were: (a) the binding effect of the recommendations made by UNHRC and other committees, and (b) the principles and requirements for establishing a human rights commission in selected jurisdictions. In this connection, RLSD has prepared two separate information notes, entitled *Whether the Recommendations of the United Nations Human Rights Treaty Bodies are Binding on Their Member States?* (IN04/06-07) and *Principles and Requirements for Establishing a Human Rights Commission in Selected Jurisdictions* (IN05/06-07).

⁴ The Government has replied that it will provide the Panel with a paper presenting its views.

2. Human rights framework in Hong Kong

2.1 According to the Government, Hong Kong's current human rights framework, underpinned as it is by the rule of law, an independent judiciary, a comprehensive legal aid system, three human rights institutions, namely the Equal Opportunities Commission (EOC), the Office of the Ombudsman (Ombudsman) and the Office of the Privacy Commissioner for Personal Data (PCPD), and a free and vigilant media corps, provides sufficient protection and support for human rights in Hong Kong. Therefore, the Government has not established any HRC.

2.2 To provide further protection for human rights, the Government has established the Complaints Against Police Office (CAPO) for investigating complaints about the conduct and behaviour of members of the police force and the Independent Commission Against Corruption Complaints Committee for monitoring and reviewing the handling by the Independent Commission Against Corruption (ICAC) of non-criminal complaints against ICAC and officers of ICAC.

2.3 In addition, the Government has set up a number of committees such as the Human Rights Education Sub-committee under the Committee on the Promotion of Civic Education (CPCE) to promote public understanding of the Bills of Rights Ordinance and the various international human rights treaties. There is also a human rights forum which allows the Government to hold discussions with NGOs on substantive human rights issues. According to the Government, the Basic Law Promotion Steering Committee also serves to promote public understanding of the Basic Law, which provides the constitutional guarantees for human rights.⁵

3. Academics' views on the existing human rights framework in Hong Kong⁶

Views of Raj Kumar and Michael Davis

Views on whether Hong Kong's existing human rights framework is compliant with the Paris Principles

3.1 According to Raj Kumar and Michael Davis,⁷ Hong Kong's existing human rights framework is not in compliant with the Paris Principles. Both academics consider that although Hong Kong has EOC, the Ombudsman and PCPD which are engaged in protecting and promoting some aspects of human rights, these institutions are not best suited to provide a holistic approach to the protection and promotion of human rights, as envisaged in the Paris Principles.

⁵ See The Government of the Hong Kong Special Administrative Region (2005).

⁶ The sequence of presentation of the views expressed by academics is based on the chronological order of reply.

⁷ Raj Kumar is an assistant professor at the School of Law of the City University of Hong Kong and Michael Davis is a professor of law at the Department of Government and Public Administration of the Chinese University of Hong Kong. They have jointly responded to RLSD's enquiries.

3.2 The Paris Principles set out the approach and understanding of the institutionalization of human rights. They also provide guidelines on how HRCs can achieve the goals of protecting and promoting human rights.⁸ The Paris Principles require that HRCs have "as broad a mandate as possible"⁹ and such mandate has either constitutional or legislative validity. However, in the context of Hong Kong, both academics consider that the mandate given to the existing institutions is fairly limited and the powers exercised are narrow.

3.3 The Paris Principles, in its section on HRCs' competence and responsibilities, suggest that HRCs should be given sufficient scope to evolve according to socio-legal and political circumstances, and to include those functions that they deem appropriate. It is hoped that jurisdictions would evolve a broader approach to institutional protection of human rights. In the section on the composition and guarantees of independence and pluralism, the Paris Principles emphasize the need for the implementation of measures to ensure HRCs' functional autonomy and operational independence.

3.4 Raj Kumar and Michael Davis state that the functional autonomy and operational independence of existing human rights institutions in Hong Kong are neither protected through the legal structure in Hong Kong nor in practice. Such institutions have been subject to different types of criticism. This is of particular concern when other public institutions, including the judiciary and, to a certain extent, the administrative procedure of grievance redress within government departments, may not always be able to afford "guarantees of independence and pluralism".

3.5 The Paris Principles specify that one of the main functions of an HRC in a member state should "promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation".¹⁰ This is an important principle as it refers to the compatibility of international human rights law and national legislation.

3.6 The Paris Principles also aim at ensuring that governments take efforts to ratify international human rights treaties. In the context of Hong Kong, according to both academics, since the existing human rights institutions have limited mandate and have not had the powers to handle human rights violations, including civil, political, economic, social and cultural rights, they have not been able to perform these responsibilities effectively.

⁸ The Paris Principles are the first systematic effort to enumerate the role and functions of HRCs. For details, please refer to the information note entitled *Principles and Requirements for Establishing a Human Rights Commission in Selected Jurisdictions* (IN05/06-07).

⁹ See Office of the High Commissioner for Human Rights (1993).

¹⁰ See Office of the High Commissioner for Human Rights (1993).

3.7 Raj Kumar and Michael Davis state that member states ought to establish HRCs to assist in setting standards in the area of human rights, ratifying international human rights treaties, and promoting domestic law reform to elevate the status of international human rights treaties within the domestic law. These are important aspects of good governance mechanisms in human rights matters. However, both academics consider that the existing human rights institutions in Hong Kong do not perform these responsibilities in an effective manner.

Views on whether a human rights commission should be established in Hong Kong

3.8 Raj Kumar and Michael Davis emphasize that an independent HRC should be established in Hong Kong as soon as possible. The institutional approach to handling human rights issues has proven to be one of the most commonly developed strategies to facilitate domestic protection and promotion of human rights. Hong Kong needs an independent HRC which should specifically be mandated to investigate allegations of human rights violations that come before it or those cases in which it decides to take suo motu¹¹ jurisdiction. According to both academics, the need for creating an independent HRC is demonstrated by the fact that human rights issues have once again come to the forefront of political discourse in Hong Kong in view of controversies surrounding the Article 23 legislation and other matters in 2003. For example, various interest groups had to engage with the Government for several months in vain to convince it of the need for examining the Article 23 legislation due to its negative impact on human rights and civil liberties.

3.9 In addition to the aforementioned justifications for the creation of an independent HRC in Hong Kong, both academics point out that an independent HRC in Hong Kong can help provide direction to the human rights discourse in its dialogue with the Government. According to Raj Kumar and Michael Davis, the perceived governmental apathy relating to human rights issues can, to a large extent, be overcome if the Government starts to consider human rights as a development and governance issue, rather than a purely political issue. The presence of an independent HRC can, in the opinion of both academics, ensure that numerous matters in which the Government has not acted in accordance with the rights and freedoms guaranteed to the people of Hong Kong can be averted from tedious court cases. An independent HRC will be able to engage with victims of human rights violations and can potentially serve as an impartial arbiter between the Government and those victims. Unnecessary time, money and resources spent for litigation can thus be better utilized for other activities. Both academics further point out that an independent HRC can also provide greater impetus through its research and development department in understanding the relationship among human rights, democracy and development of the society.

¹¹ It is a legal term that means to act spontaneously without prompting from another party.

3.10 Both academics remark that some people may object the establishment of an HRC because of the presence of EOC. They explain that the formation of EOC in Hong Kong was preceded by initial efforts to create an HRC. These efforts did not lead to the creation of HRC but EOC. Both academics view that equality and non-discrimination, albeit a very important human rights issue, is only one of the various human rights issues that need an institutional response. In addition, EOC has jurisdictional limitations to pursue matters that are violations of the anti-discrimination law. This means that many human rights violations will have to be dealt with by the courts of Hong Kong or some other administrative tribunals, which usually offer little relief to the victims.

3.11 Both academics consider that the establishment of an independent HRC depends on political consensus and the commitment of the Government to provide the functional autonomy and operational independence. It would also involve political bargaining with the Mainland, that brings into question the autonomy Hong Kong supposed to enjoy while being part of China. Both academics opine that the autonomy of an independent HRC will in a way mirror the larger question of how politically autonomous Hong Kong itself can be.

Functions of a human rights commission to be established in Hong Kong

3.12 HRCs worldwide usually perform a variety of functions, including investigating alleged human rights violations, conducting public inquiries, exercising advisory jurisdiction, enforcing human rights in prisons and other custodial institutions, providing advice and assistance to governments, promoting human rights education and awareness, promoting interaction, exchange, and better co-ordination among other HRCs in the region and worldwide, promoting interaction and exchange with NGOs, and publication of annual reports.

3.13 In addition to the functions stated above, both academics consider that the HRC to be established in Hong Kong should also perform a few more specific functions:

- (a) engaging and collaborating with NGOs in Hong Kong to tackle human rights problems and to promote and develop a vibrant civil society culture in Hong Kong;
- (b) collaborating, sharing information with other HRCs in the Asia-Pacific region and other parts of the world and learning from best practices and experiences of those HRCs that have been successful in handling human rights issues in other jurisdictions; and
- (c) involving itself in the task of prioritizing the promotion of human rights education in Hong Kong that respects human dignity and cherishes human values such as equality, non-discrimination and tolerance.

Views of Hon Chan

Views on whether Hong Kong's existing human rights framework is compliant with the Paris Principles and whether a human rights commission should be established in Hong Kong

3.14 Hon Chan¹² states that the existing human rights framework in Hong Kong is not in compliance with the Paris Principles. He says that there is no good reason for rejecting the establishment of an independent HRC by arguing that there is an independent judiciary system, though this is one of the arguments used by the Government.

3.15 UNHRC's recommendation is a response to the concern "regarding the limited mandate and powers of the Ombudsman, including its lack of oversight function of the police and EOC".¹³ Hon Chan states that the Government has seemed to ignore the concern by simply arguing that the establishment of an independent HRC is not necessary because Hong Kong has human rights institutions such as EOC and the Ombudsman in place already. He considers that this argument seems to have begged the question.

3.16 Hon Chan opines that the Government may have a stronger case of rejecting the establishment of an independent HRC if all the major human rights issues in Hong Kong can be adequately dealt with by the existing specialized institutions such as EOC and the Ombudsman. However, Hon Chan does not believe that these existing specialized institutions can adequately do so, and UNHRC's concern is indeed justified. He explains that the limited mandate and powers of EOC, under the existing law, can only handle a few specific forms of discrimination, and there is virtually no mechanism to deal with other forms of discrimination in Hong Kong.

3.17 In addition, the establishment of an independent HRC has become an international trend. Hon Chan supplements that "perhaps there may be a strong argument against such a move in Hong Kong, but the arguments raised by the Government have so far seemed rather weak".

¹² Hon Chan is the Head of the Department of Public and Social Administration of the City University of Hong Kong.

¹³ See United Nations Human Rights Committee (2006).

Views of Carole Petersen

Views on whether Hong Kong's existing human rights framework is compliant with the Paris Principles

3.18 According to Carole Petersen¹⁴, Hong Kong's existing human rights framework does not comply with the Paris Principles. First, Hong Kong does not have an HRC with broad jurisdiction. Carole Petersen considers that at a minimum, Hong Kong should have a general human rights body with the power to investigate complaints alleging violations of the human rights provisions of the Basic Law and violations of the Bill of Rights Ordinance. Carole Petersen opines that since Hong Kong does not have such a body, Hong Kong's existing human rights framework is clearly not in compliance with the Paris Principles.

3.19 Secondly, Carole Petersen does not agree with the Government that Hong Kong has a collection of different public bodies that perform the functions of an HRC, in particular EOC. According to Carole Petersen, specialist bodies such as EOC have narrowly defined areas of jurisdiction. EOC does not even extend to the entire field of unlawful discrimination. She goes on to explain that EOC is currently only empowered to investigate and conciliate complaints arising under the three specific anti-discrimination ordinances, namely the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance.¹⁵ Hence, EOC is unable to take up a case for a person who alleges that he/she has suffered from discrimination on the ground of religion, age, or political opinion, although these forms of discrimination have been unlawful under the Bill of Rights Ordinance since 1991 and certainly should be within the jurisdiction of EOC.

3.20 Thus, Carole Petersen opines that it is misleading for the Government to claim that specialist bodies in Hong Kong perform the functions of an HRC. In fact, there are many types of human rights violations that could "fall between the cracks" of the existing public bodies¹⁶. Without the support of a public body to receive and investigate such a complaint, Carole Petersen considers that it will be very difficult for an ordinary person to enforce his/her rights under the Basic Law or the Bill of Rights Ordinance. She further explains that legal representation is very expensive in Hong Kong and there are no freedom of information law (but an unenforceable code), making it difficult for the average citizen to investigate actions by government departments. That is precisely how an independent HRC could come into play.

¹⁴ Carole Petersen previously taught at the Department of Law of the University of Hong Kong. She is currently a visiting professor of the William S. Richardson School of Law of the University of Hawaii.

¹⁵ The Government introduced the Race Discrimination Bill into the Legislative Council in December 2006.

¹⁶ An example given by Carole Petersen is a claim alleging a government department which has discriminated against a person on the ground of religion.

3.21 Carole Petersen also argues that the procedures for making appointments to bodies such as EOC and PCPD do not comply with the Paris Principles. The Paris Principles require that the appointment process be open and transparent, and that it should allow for pluralist representation of the social forces involved in the promotion and protection of human rights. In practice, Carole Petersen observes that the Government has always maintained tight control over appointments to the public bodies such as EOC and PCPD.

3.22 Carole Petersen further argues that as long as the Government maintains tight control over the appointments to such public bodies, there will be questions about the operational independence of these institutions. She says that ideally, the process of appointment should be similar to the process by which judges are appointed, as these bodies are entrusted with the important role of investigating human rights violations. For example, the vast majority of complaints filed with EOC never reaches the courts but rather are resolved by an internal process of investigation and conciliation within EOC.

Views on whether a human rights commission should be established in Hong Kong

3.23 Carole Petersen states that Hong Kong should establish an independent HRC, one that complies with the Paris Principles. She says that international treaty-monitoring bodies have frequently called upon the Government to establish an HRC, as part of its obligations under the international human rights treaties that apply to Hong Kong. The Government should not lightly dismiss the recommendations of UNHRC and other treaty-monitoring bodies. She advises that the Government should be particularly attentive to recommendations that are made repeatedly or by more than one treaty-monitoring body.

3.24 Carole Petersen also says that it is in Hong Kong's best interest to maintain a strong human rights record. However, in practice, it is falling behind other jurisdictions in this regard. She explains that while this is partly due to the lack of progress with regard to democracy, it is also due to specific weaknesses in the human rights framework, which could be addressed without major constitutional reforms. In particular, Carole Petersen points out two weaknesses. One weakness is the lack of an enforceable right of access to government information. Another one is the lack of an independent HRC to receive and investigate complaints arising under the human rights provisions of the Basic Law and the Bill of Rights Ordinance.

3.25 Carole Petersen suggests that the Legislative Council (LegCo) and the public can put pressure on the Government to establish an HRC. If the Government continues to resist creating an HRC, Carole Petersen proposes that LegCo and the public should, at a minimum, request that the Government immediately introduces legislation to give EOC jurisdiction over all complaints of unlawful discrimination, including those arising under the Basic Law and the Bill of Rights Ordinance.

Views of the Centre for Comparative and Public Law of the University of Hong Kong

Views on whether Hong Kong's existing human rights framework is compliant with the Paris Principles and whether a human rights commission should be established in Hong Kong

3.26 The Centre for Comparative and Public Law (Centre) states that Hong Kong's current human rights framework fails to comply with the Paris Principles for several reasons. One of them is the limited human rights mandates given to government departments and NGOs. The Centre points out that although a number of government departments or quasi-government organizations are responsible for particular aspects of human rights promotion in Hong Kong, their effectiveness in providing human rights education and protection is limited by their narrow jurisdiction and lack of independence. On the other hand, NGOs and social institutions engaging in human rights promotion and assisting victims of human rights violations in Hong Kong often experience a lack of sufficient resources, statutory status and powers. All these greatly impede their overall effectiveness in promoting and protecting human rights.

Human rights promotion and research

3.27 The Centre also makes comments on the effectiveness of CPCE in promoting human rights in Hong Kong. It says that although CPCE has invested in human rights education, its promotion efforts do not have a significant impact and the level of rights consciousness, though rising, remains relatively low. The Centre believes that CPCE's limited human, financial and other resources and its broad range of duties, restrict its efforts on human rights promotion. In the opinion of the Centre, the focus of CPCE on patriotic education in recent years has further reduced the time and resources that CPCE can allocate to human rights education. The Centre considers that an independent HRC could better promote and co-ordinate human rights education and provide human rights related information in Hong Kong.

Review of legislation and advisory function

3.28 Article 39 of the Basic Law guarantees the continuing implementation of several international human rights treaties in Hong Kong, rendering invalid any local legislation that contravenes the provisions of these treaties. Hong Kong's current legal system provides three major channels for detecting provisions that are inconsistent with human rights and that trigger the legislative review process. However, the Centre states that each of these channels has limitations.

3.29 First, the courts of Hong Kong have played a role in detecting legal provisions that are inconsistent with human rights. However, since a court only determines whether a particular provision violates human rights when deciding a case, according to the Centre, any legislative review in response to a court decision is passive and remedial, rather than preventative, in nature. The Centre also adds that court decisions tend to be strictly legalistic and may ignore social and economic considerations.

3.30 The Department of Justice also has a responsibility to carry out legislative review on its own initiative to ensure that the laws in Hong Kong comply with international human rights treaties as applied in Hong Kong. This legislative review process, in the opinion of the Centre, lacks independence since the Department of Justice, as a government department, is likely to conduct reviews from the government's perspective, which raises questions about the impartiality and effectiveness of this channel.

3.31 The third channel of reviewing legal provisions for their consistency with human rights is by introducing private members' bills in LegCo. According to the Centre, this method of review is also ineffective in the Hong Kong context because of the limited resources (especially legal expertise) on the part of many legislators and the constitutional constraints on the introduction of private members' bills in Hong Kong.

3.32 The Centre considers that the establishment of an HRC would help resolve these limitations since a full-time HRC made up of experts from various professions could undertake legislative review more comprehensively and detect problematic provisions pre-emptively and objectively. An HRC could also play an advisory role for the Government and LegCo during the legislative process by conducting relevant research, carrying out public consultation when necessary, drafting amendments and scrutinizing relevant bills. It could make legislative proposals for the purpose of plugging loopholes in human rights protection. Additionally, an HRC could advise government bureaux and departments on policies that touch upon human rights in order to ensure administrative compliance with human rights.

Complaints handling

3.33 There are several channels in Hong Kong for handling complaints of maladministration and the infringement of rights which can be grouped broadly into three categories:

- (a) internal investigation;
- (b) investigation by quasi-government bodies; and
- (c) litigation.

3.34 The Centre states that internal investigation mechanisms, particularly CAPO, have long been proven ineffective in the protection of rights and have violated rules of natural justice. There is a strong perception that CAPO, as a police unit, is biased in favour of the police when handling complaints against the police. Its external monitoring organization, the Independent Police Complaints Council, has failed to change this perception.

3.35 Hong Kong has three quasi-government bodies which handle complaints, namely EOC, the Ombudsman and PCPD. The Centre holds the views that since each of these bodies is empowered to handle only limited categories of complaints, they do not have jurisdiction over the majority of complaints of rights violations in Hong Kong. According to the Centre, none of these bodies have explicit human rights mandates and only an HRC with broad jurisdiction over a range of human rights concerns could help remedy this situation.

3.36 Litigation is the most reliable system of redress among the three channels. However, the Centre notes that complicated trial procedures, long queuing times for adjudication, uncertainty of outcome and huge litigation costs often discourage victims from filing cases in the courts.

3.37 Given the inadequacies of these various complaints handling channels, the Centre concludes that a genuinely independent, statutory HRC established according to the Paris Principles is urgently needed. As a complaints handling body, an HRC should have broad jurisdiction over all kinds of rights violations; be equipped with independent investigative and sanction powers; and provide more expeditious and cheaper redress mechanisms as an alternative to litigation. An HRC with the power to resolve human rights disputes through conciliation or adjudication, as recommended under the Paris Principles, would strengthen the human rights protection mechanism.

3.38 The Centre states that the Government has expressed concern that the creation of an HRC with powers to conduct conciliation or adjudication would overlap with or replace the function of the courts. The Centre does not agree with the Government. The Centre argues that an HRC being granted this power of conciliation and adjudication does not mean that the HRC has exclusive jurisdiction over human rights disputes. Instead, it would act as an alternative forum for dispute resolution, and thus be complementary to, not duplicative of, the existing formal and informal institutions concerned with human rights in Hong Kong. Cases could still go to the courts if necessary, or if the parties desire and for cases that go to the HRC, conciliation would first be conducted. The adjudicating power of the HRC would only be invoked when conciliation is unsuccessful. The Paris Principles recommend that determinations made by an HRC, be given binding force but these binding decisions could still be challenged in court on questions of law. In other words, the dispute resolution function of the HRC will not undermine the status and power of the courts. On the contrary, the Centre argues that by diverting some cases to the HRC, the workload of the courts could be reduced thus saving judicial resources.

Advising litigants

3.39 Given its expertise, an HRC could also intervene in human rights litigation through drawing the courts' attention to crucial matters and submitting influential legal arguments relating to human rights. By doing so, the Centre believes that an HRC would play a significant role in the development of human rights jurisprudence in Hong Kong.

Reporting and communication with the United Nations human rights bodies

3.40 All the United Nations (UN) human rights treaties require member states to submit reports from time to time detailing the implementation of the relevant treaties. In Hong Kong, the Centre proposes that the HRC should assist the Government by providing information during the reporting process. Indeed, under the Paris Principles, HRCs should "contribute to the reports which States are required to submit to UN bodies and committees".¹⁷

3.41 Apart from assisting in the preparation of reports, the Centre considers it appropriate that an HRC should help individuals file complaints to the relevant treaty-monitoring body or other UN human rights agencies through individual or group communications procedures.

3.42 The Centre also suggests that an independent HRC could facilitate a more effective channel for Hong Kong to communicate with the UN treaty-monitoring bodies, allowing the latter to have a better understanding of, and help improve, Hong Kong's human rights situation.

3.43 Given Hong Kong's lack of conformity with the requirements of the Paris Principles and the advantages that an HRC may bring to the promotion and protection of human rights in Hong Kong, the Centre considers that the establishment of a genuinely independent statutory HRC with pluralistic representation and a broad human rights mandate would be a valuable force in strengthening human rights work in Hong Kong.

3.44 Lastly, the Centre remarks that an HRC in Hong Kong may not guarantee that human rights would be completely protected, and its establishment should not be viewed as an implicit criticism of Hong Kong's current efforts to protect and promote human rights. However, such a body would be consistent with Hong Kong's strong commitment to human rights and would reinforce Hong Kong's reputation as a beacon of human rights protection in a region that still has no formal inter-governmental human rights mechanism.

¹⁷ See Office of the High Commissioner for Human Rights (1993).

Views of Lau Pui King

Views on whether Hong Kong's existing human rights framework is compliant with the Paris Principles

3.45 Lau Pui King¹⁸ has a different opinion from the other academics, as she fully supports the views expressed by the Government in the Second Report of the Hong Kong Special Administrative Region in the light of ICCPR and the response to UNHRC. In particular, she is pleased to see that the Government has introduced the Race Discrimination Bill for protecting human rights in Hong Kong.

3.46 Lau Pui King states that the Government has already established a number of boards and government agencies such as the Ombudsman to protect human rights. The existing system for safeguarding human rights of Hong Kong people functions well. Hence, she considers that the Government has fulfilled the Paris Principles and has adhered to the Basic Law.

Views on whether a human rights commission should be established in Hong Kong

3.47 Lau Pui King does not think setting up an HRC in Hong Kong is necessary.

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¹⁸ Lau Pui King is an associate professor at the School of Accounting and Finance of the Hong Kong Polytechnic University.

References

1. Home Affairs Bureau. (2006) *Initial Response to the Concluding Observations of the United Nations Human Rights Committee on the Second Report of the Hong Kong Special Administrative Region in the Light of the International Covenant on Civil and Political Rights*. Paper submitted to the Panel on Home Affairs of the Legislative Council for discussion on 9 June 2006. LC Paper No. CB(2)2219/05-06(01).
2. Legislative Council Secretariat. (2006) *Background Brief on Second Report on the Hong Kong Special Administrative Region in the Light of the International Covenant on Civil and Political Rights*. LC Paper No. CB(2)2219/05-06(02).
3. *Minutes of Meeting of the Panel on Home Affairs of the Legislative Council*. (2006) 9 June. LC Paper No. CB(2)2953/05-06.
4. Office of the High Commissioner for Human Rights. (1993) *Fact Sheet No. 19, National Institutions for the Promotion and Protection of Human Rights*. Available from: <http://www.unhchr.ch/html/menu6/2/fs19.htm> [Accessed 9 August 2006].
5. Office of the High Commissioner for Human Rights. (2002) *Sixth International Conference for National Institutions for the Promotion and Protection of Human Rights: The Copenhagen Declaration*. Available from: <http://www.unhchr.ch/html/menu2/copendec.htm> [Accessed 12 October 2006].
6. Petersen, C.J. (2004) The Paris Principles and Human Rights Institutions: Is Hong Kong Slipping Further Away from the Mark? Vol. 3. In: *Hong Kong Law Journal*. Hong Kong, Sweet & Maxwell Asia, pp. 513-522.
7. The Government of the Hong Kong Special Administrative Region. (2005) *Second Report of the Hong Kong Special Administrative Region in the Light of the International Covenant on Civil and Political Rights*. Available from: [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/08f27a5dd0f2b564c1257046002db9c1/\\$FILE/G0540618.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/08f27a5dd0f2b564c1257046002db9c1/$FILE/G0540618.pdf) [Accessed 12 October 2006].
8. The Government of the Hong Kong Special Administrative Region. (2006) *Press Release: HKSAR Government Welcomes Constructive Dialogue with the UN Human Rights Committee*. Available from: <http://www.info.gov.hk/gia/general/200604/01/P200604010181.htm> [Accessed 12 October 2006].
9. United Nations Human Rights Committee. (2006) *Concluding Observations of the Human Rights Committee*. Paper submitted to the Panel on Home Affairs of the Legislative Council for discussion on 9 June 2006. LC Paper No. CB(2)1653/05-06(01).