

**Report of the Hong Kong
Special Administrative Region for
the United Nations Human Rights Council
Universal Periodic Review**

Methodology and consultation

In preparing this part of the report, the Hong Kong Special Administrative Region (HKSAR) Government conducted an exercise in February and March 2013 to consult the public. A consultation document published by the HKSAR Government was sent to a broad spectrum of the community, including the Legislative Council (LegCo), relevant non-governmental organisations (NGOs), interested members of the public and the media, and distributed through the District Offices and on the internet. During the consultation period, the HKSAR Government also collected views from representatives of NGOs at the LegCo and the Human Rights Forum. The HKSAR Government has carefully considered all the comments received.

Framework and measures for promotion and protection of human rights

2. As stated in the previous report, in the HKSAR, human rights are fully protected by law. The legal safeguards are provided in the Basic Law of the HKSAR of the People's Republic of China, the Hong Kong Bill of Rights Ordinance and other relevant ordinances. They are buttressed by the rule of law and an independent judiciary. In addition, there are a number of organisations which help promote and safeguard different rights, including the Equal Opportunities Commission, the Privacy Commissioner for Personal Data (PCPD), the Ombudsman, the Independent Police Complaints Council (IPCC), and the legal aid services. The HKSAR Government's performance in promoting and safeguarding human rights is open to scrutiny through periodic reports to the United Nations (UN) human rights treaty monitoring bodies and is constantly watched over by the LegCo, the media, various human rights NGOs and the community at large. Since the last review, the HKSAR Government continued to attach great importance to promoting human rights through public education and publicity.

Achievements and challenges

3. The Basic Law provides that the ultimate aim is the election of the Chief Executive (CE) and all Members of the LegCo by universal suffrage in light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. According to the decision adopted by the Standing Committee of the National People's Congress (NPCSC) in December 2007, the election of the CE may be implemented by universal suffrage in 2017, and after the CE is elected by universal suffrage, the election of the LegCo of the HKSAR may be implemented by the method of electing all the members by universal suffrage.

4. In the summer of 2010, the reform package put forth by the HKSAR Government for the elections of the CE and LegCo in 2012 was passed by a two-thirds majority of all the members of the LegCo, given consent by the CE and endorsed by the NPCSC. For the first time since its establishment in 1997, the HKSAR has completed the constitutional procedures required to amend the electoral methods for the CE and the LegCo. The two elections were held successfully in March and September 2012 respectively.

5. The HKSAR Government is fully committed to attaining universal suffrage for both the CE and the LegCo elections in accordance with the Basic Law and the decision of the NPCSC of December 2007. With the experience gained in the 2010 exercise, the HKSAR Government will, at an appropriate juncture, launch public consultations on the election methods for the LegCo election in 2016 and the CE election in 2017, and initiate the required constitutional procedures accordingly.

6. In May this year, the LegCo passed a bill to abolish all appointed seats of the District Councils (DCs) from the next term of the DCs, which will commence in 2016.

7. Another major development since the previous review is the much enhanced screening mechanism for torture claims introduced by the HKSAR Government in December 2009. The mechanism has been underpinned by statute since December 2012. Under the mechanism, claimants are given every reasonable opportunity to establish their claims. Aggrieved claimants may appeal to a statutory Torture Claims Appeal Board comprising former judges or magistrates. A claimant may not be removed from the HKSAR to another country where there are substantial grounds for believing that the claimant would be in danger of being subjected to torture there.

8. On the protection of privacy, in 2012 the Personal Data (Privacy) Ordinance was amended to strengthen the protection of personal data privacy. The amendments include enhancing regulation over the use of personal data in direct marketing and provision of personal data to others for use in direct marketing.

9. The HKSAR Government continues to respect the freedom and rights of peaceful assembly and procession, as enshrined in the Basic Law and the Hong Kong Bill of Rights Ordinance. The Police have been facilitating all lawful and peaceful public meetings and processions while ensuring public order and public safety.

10. To enhance the mechanism for handling of complaints against the Police, the IPCC Ordinance came into force in June 2009, to provide the IPCC an independent statutory status vested with statutory functions and powers to observe, monitor and review the handling and investigation of reportable complaints by the Police. The Ordinance imposes a statutory duty on the Police to comply with the IPCC's requirements, further enhancing the IPCC's independence in dealing with complaints against the Police.

11. Freedom of expression and press freedom are fundamental rights enjoyed by people in the HKSAR. As always, the media reports

freely, commenting extensively and liberally on local and external matters. Applications for licences for broadcasting are considered by an independent regulator fairly and in strict accordance with the law and established procedures.

12. To tackle the issue of poverty, the HKSAR Government set up a high level Commission on Poverty in December 2012 to review the effectiveness of existing poverty alleviation policies, formulate new policies to prevent and alleviate poverty and social exclusion, as well as promote upward social mobility.

13. On labour rights, the HKSAR Government completed a policy study on standard working hours (SWH) and released the study report in November 2012. In April 2013, the CE appointed representatives of various sectors to the SWH Committee, with a view to building consensus and identifying the way forward.

14. In the HKSAR, workers' rights to form and join trade unions are guaranteed by the Basic Law and the Hong Kong Bill of Rights. Members and officers of a registered trade union enjoy a number of rights and immunities under the Trade Unions Ordinance. The Employment Ordinance provides employees with protection against anti-union discrimination. The HKSAR Government is studying the details regarding a proposal about reinstatement or re-engagement of an employee who has been unreasonably and unlawfully dismissed.

15. There has been substantial improvement in the earnings of grassroots employees after the Statutory Minimum Wage (SMW) was introduced in 2011. The SMW rate has increased by HK\$2 to HK\$30 an hour with effect from 1 May this year. The SMW rate is reviewed at least once in every two years.

16. The Race Discrimination Ordinance came into full operation in July 2009. To promote racial equality and ensure ethnic minorities'

(EMs') access to key public services, the HKSAR Government will extend the application of administrative guidelines to 21 bureaux, departments and public authorities later this year.

17. Since the last review, the HKSAR Government has strengthened support services to facilitate EMs' integration into the community. The enhancement measures include increasing the number of support service centres to provide EMs with different kinds of trainings and activities. In 2013, the CE has also announced further measures to enhance the support for non-Chinese speaking (NCS) students¹ in learning the Chinese Language, including, amongst others, parents' participation in summer bridging programmes to facilitate students' early adaptation to the local education system, enhancing the professional competencies of teachers, etc. The HKSAR Government will make further endeavours taking into consideration stakeholders' views.

18. Since the last review, the HKSAR Government has fulfilled and will continue to fulfill, its obligations under the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child.

19. As in many parts of the world, sexual orientation is a controversial subject in the HKSAR. This notwithstanding, the HKSAR Government's position is clear – no person should be discriminated against on any grounds, including sexual orientation. The HKSAR Government has been undertaking extensive publicity and promotion with a view to fostering in the community a culture of mutual understanding, tolerance and respect. More resources will be injected into this area.

¹ For the planning of education support measures, students whose spoken language at home is not Chinese are broadly categorised as NCS students.

20. During the last review, the HKSAR was recommended to “continue to function according to their realities and preserve different rights of their citizens in accordance with their laws”. The HKSAR Government has made continuous efforts in protection of human rights in the light of actual situation. The HKSAR Government will not underestimate the difficulty and challenges in building up consensus on various controversial issues, such as constitutional development and the protection of rights of sexual minorities, in the coming years. The HKSAR Government will protect and promote the rights of different groups through legal and administrative means, and in close collaboration with different sectors.