醫護行者 Health In Action

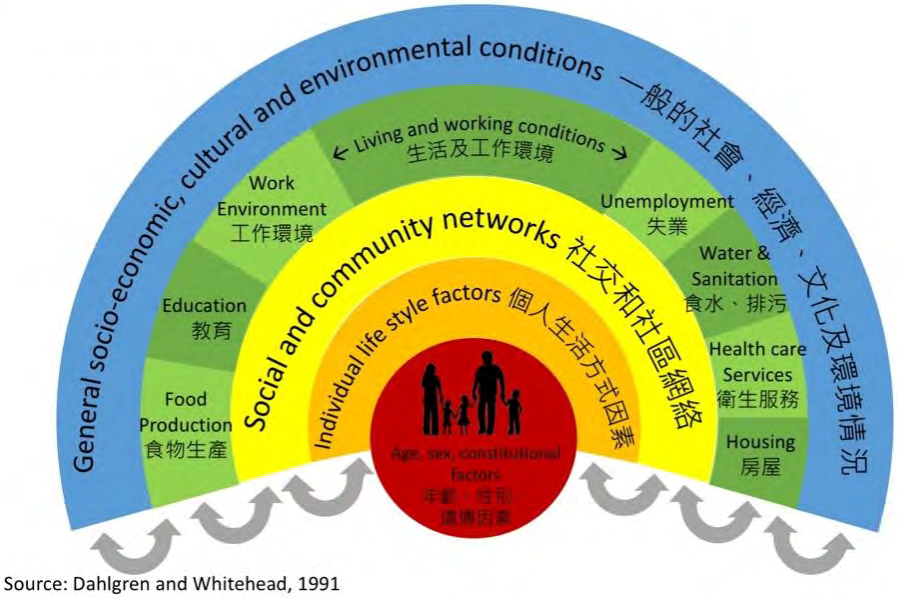
To eliminate health inequity in societies 消除社會上的健康不公平

The Legislative Council Panel on Constitutional Affairs
30 April 2018 Meeting on
"Outline of the Third Report of the Hong Kong Special Administrative Region for the United Nations Human Rights Council Universal Periodic Review"

Submission from Health In Action

1. The purpose of this submission is to highlight key concerns and suggestions regarding the Right to Health in Hong Kong SAR (HKSAR). The right to health has been enshrined in international human rights treaties such as International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention on the Rights of the Child (CRC), which are applicable to HKSAR. The right to health means that the HKSAR Government must generate conditions in which everyone can be as healthy as possible. Such conditions include availability of health services, adequate housing and nutritious food. The right to health does not mean the right to be healthy.

2. Since our establishment in 2011, HIA has witnessed human rights concerns regarding the health and wellbeing of our beneficiary groups. In this submission, we shall highlight key concerns and recommendations regarding the Right to Health in HKSAR and the relevant social determinants of health. The first part focuses on vulnerable groups whom we work with on a daily basis, namely the working poor, ethnic minorities, and refugees. The second part identifies overarching gaps and recommendations for HKSAR to become a Healthy City for all. We have made recommendations in line with the Sustainable Development Agenda and its principle of "leaving no one behind", in order to promote health equity for all in HKSAR.



Source: Dahlgren and Whitehead, 1991

Fig 1. The social determinants of health.

The Right to Health and the Social Determinants of Health for specific populations

3. Working conditions, including long working hours and occupational illnesses, are major concerns among the working poor. The HKSAR government population census has revealed that 11.1% of the working population work at least 60 hours per week, which has multiple adverse effects on the health of workers and their families[1]. Our experience with working poor families showed that poverty and poor health often form a vicious cycle, particularly for workers who are engaged in jobs that are at high-risk of occupational injury. In addition, our research has found that not only do long working hours result in psychological and physical stress, but it also acts as a barrier to the access of health care services among the working poor[2]. The Universal Declaration of Human Rights (UDHR) Article 24 and International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 7 recognize the right to rest, including reasonable limitation of working hours.
   We recommend the HKSAR government to implement a legislation to limit the maximum number of working hours within its current 5-year term of administration.

4. The 1951 Refugee Convention was formulated to protect the rights of individuals seeking asylum. However, while China is a signatory to the Refugee Convention and it has been extended to Macao SAR, it has not been extended to HKSAR. Individuals coming to HKSAR to seek asylum are screened by the Immigration Department under the Unified Screening Mechanism, which has been repeatedly criticized by civil society and human rights lawyers to be non-transparent and of questionable quality, with exceptionally low recognizance rates. Among recognized refugees, not only do they not have the right to work, but there is also a strict quota limiting the resettlement to a third country and hence many have stayed in HKSAR for over a decade without a durable solution.
   We recommend the HKSAR government to adopt the 1951 Refugee Convention and its 1967 Protocol within its current 5-year term of administration to demonstrate its commitment as a global city.

5. While the Race Discrimination Ordinance (RDO) has been introduced in HKSAR since 2008, significant gaps remain. In particular, it excludes racial discrimination based on language and religion, and exempts the government in performing its functions or exercising its powers. For example, ethnic minorities facing racial profiling by the police force is not given legal protection. Such exemptions are clearly against the principles stated in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In addition, we observed increasing frequency of online remarks on the internet that convey racial discriminatory messages directed to ethnic minorities and organizations working with this community in

[1] Census and Statistics Department, HKSAR (2017). 2016 Population By-census Main Results. Table 6.14A Working population (excluding foreign domestic helpers) by weekly usual hours of work of all employment and sex, 2016.
[2] Health In Action (2017). Study report on the access to health care among working poor in Hong Kong. Available at: http://www.hia.org.hk/wp-content/uploads/2016/01/Hong-Kong-Working-Poor-Health-Care-Access-Study-Report.pdf [accessed 22 March 2018]

HKSAR. Yet, legal or mediatory actions are difficult to be taken due to the anonymous nature of such online comments.
We recommend the HKSAR government to immediately announce a clear timeline for legislation review and amendments to redress existing gaps in the RDO.

6. HKSAR is undergoing a rapidly ageing population, the size of elderly population aged 65 and above is expected to increase from 15% of total population in 2015 to 31% in 2043[3]. Recently, there has been a number of tragedies where care-givers of elderlies decided to end the life of those they were caring for due to unmanageable stress, in which some of them ended their own lives subsequently. Such incidences have also recently occurred among care-givers for children with special needs. Regrettably, there is a concerning lack of support and protection for unpaid care-givers, which could threaten the fundamental human rights of care-givers, such as the right to respect for private and family life, and the right to health. Countries such as the UK and Australia have passed legislations to recognize and protect the rights of care-givers.
We recommend the HKSAR government to immediately launch a public consultation to review its existing policies and legislations relating to the protection of unpaid care-givers.

Overarching recommendations on Right To Health to become a Healthy City

7. The "right to health" is an inclusive right, it encompasses not only the "right to health care", but also extends to a wide range of factors that have an influence on our health, such as housing, working, and environmental conditions[4]. However, health policies in HKSAR exhibit a downstream approach in focusing narrowly on the healthcare system, and in fact there have been instances of policy incoherence from non-health sectors that could reverse the efforts of public health education.
We recommend the HKSAR government to immediately adopt the World Health Organization's "Health in All Policies" framework[5] in policymaking in order to incorporate health impact assessments across sectors and levels of government to improve population health coherently and sustainably.

8. Health disparities continue to persist in HKSAR, where vulnerable groups have a higher burden of disease than the general population. In order to close this health gap, there is an urgent need to set up goals and targets to reduce such health inequities[6]. The Committee on Economic, Social and Cultural Rights recommend that states should adopt a national strategy and set indicators to ensure to all the enjoyment of the right to health. While China has established the "Healthy China 2030" strategy, the HKSAR government has yet to devise a city-wide health strategy with stepwise

[3] Census and Statistics Department, HKSAR (2017). Hong Kong Population Projections 2017-2066. Table 3 Mid-year population by age group and sex, 2017–2066.
[4] UN Office of the High Commissioner for Human Rights (OHCHR). Fact Sheet No. 31, The Right to Health, June 2008, No. 31, available at: http://www.ohchr.org/Documents/Publications/Factsheet31.pdf [accessed 14 February 2018]
[5] World Health Organization. Health in all policies (HiAP) framework for country action, Geneva: WHO; 2014, available at http://www.who.int/cardiovascular_diseases/140120HPRHiAPFramework.pdf [accessed 14 February 2018]
[6] Report on indicators for monitoring compliance with international human rights instruments" (HRI/MC/2006/7), available at http://www2.ohchr.org/english/issues/indicators/docs/HRI-MC-2006-7.pdf [accessed 14 February 2018]

indicators, such as a 15% reduction of premature mortality due to noncommunicable diseases by 2030.
We recommend the HKSAR government to establish a city-wide health strategy within this 5-year administration term, with stepwise indicators and benchmarks to achieve better health for all (with regards to non-communicable diseases, and injuries) in line with the 2030 Agenda for Sustainable Development.

9. Despite HKSAR's high average life expectancy, our Gini coefficient has also reached a new high level of 0.539 in 2016[7]. Individuals of lower socioeconomic status often engage in high psychological demand but low control jobs. Public health evidence has shown that societies with wider wealth disparities are associated with wider health inequalities, thus many countries (including the UK and Australia) and the European Commission have commissioned independent studies on health inequalities and established Commissions on Social Determinants of Health to drive intersectoral action to redress such inequalities. Yet, the HKSAR government has yet to acknowledge the extent of health inequalities in the city due to lack of data, thus making it difficult for civil society to monitor efforts on redressing inequalities without knowledge on the extent of the problem.
We recommend the HKSAR government to commission an independent study to assess the state of health inequalities in HKSAR within this 5-year administration term and to set up a Commission on Social Determinants of Health.

10. It has been 40 years since the Declaration of Alma-Ata identified primary health care as the key to attainment of health for all[8]. However, HKSAR has yet to fully realize the right for all to universal access to primary health care. Certain groups in the society, including low-income workers, local ethnic minorities, and refugees, still face structural barriers in accessing primary health care. For instance, low income workers are often engaged in high strain jobs where the long working hours prevent them from accessing public primary health care clinics. Moreover, ethnic minorities and refugees continue to face language barriers in booking for clinic appointments and communicating with frontline workers.
We recommend the HKSAR government to immediately take concrete measures to ensure equal access to primary health care for low-income workers, local ethnic minorities, refugees, and other vulnerable groups, by taking into account their needs and characteristics in health services planning.

Health In Action *was established in 2011 and is a registered non-governmental organization in Hong Kong. Our vision is to eliminate health inequity in societies and we firmly believe that health is a fundamental human right for all, irrespective of race, religion, gender or political affiliation. We aspire to drive positive social change through cycles of service, research, and advocacy. Our current target beneficiaries include local working poor families, ethnic minorities, and refugees. Health In Action is a member of the Hong Kong Council of Social Service and is in Special Consultative Status with the Economic and Social Council.*

[7] Census and Statistics Department. Hong Kong 2016 Population By-census - Thematic Report：Household Income Distribution in Hong Kong, June 2017, available at: https://www.statistics.gov.hk/pub/B11200962016XXXXB0100.pdf [accessed 14 Feb 2018]
[8] Declaration of Alma-Ata, International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978, available at: http://www.who.int/publications/almaata_declaration_en.pdf?ua=1 [accessed 13 Feb 2018]