

Society for Community Organization

No real promise for democracy or eradication of poverty

**Submission to the United Nations Human Rights Council for the
Universal Periodic Review (Third Cycle)
of Hong Kong Special Administrative Region, China**

March 2018

**Society for Community Organization (SoCO)
Address: 3/F, 52 Princess Margaret Road, Homantin, Hong Kong.
Tel: (+852) 2713-9165 Fax: (+852) 2761-3326
E-mail: soco@pacific.net.hk
Website: <http://www.soco.org.hk>**

Introduction to Society for Community Organization (SoCO)

Society for Community Organization (SoCO) is a human rights pioneer in Hong Kong. SoCO firmly believes that everyone should be entitled to equal rights. Equal opportunity for participation and fair distribution of social resources is the foundation of human rights. In the face of the widening disparity between the rich and the poor, and the increasingly restrictive political arena, we stand firm in our crusade to establish an equal society and to build a strong power base for the people. We are motivated by a common dream, and that is: “Let us work hand in hand and shoulder to shoulder to build a caring, equal and just society”.

SoCO is an incorporated, non-profit-making and non-governmental community organization. It was formed in 1972 by missionaries from the Catholic and the Protestant churches under the ecumenical movement.

SoCO was financially supported by donations from overseas churches, local charitable foundations, the Hong Kong Community Chest, the Hong Kong Government and individuals. SoCO has, through civic education programs and social actions, nurtured grassroots people with a sense of civic rights so that they can exert their political power to the Government. During the empowerment process, people regained their self-confidence to champion for an equal social system. In view of the plight of the marginalized groups, SoCO also provides direct and emergent services to relieve their hardship temporarily.

Grassroots people are struggling day in and day out to keep their head above water. It is most scornful to see economic development brings social inequality. These deprived cannot enjoy our economic success and they are socially discriminated. They have been snubbed and fallen into oblivion. Standing in the line of underprivileged are caged lodgers, tenants with financial difficulties and living in appalling conditions, aged singletons, street-sleepers, ex-offenders, mentally ill patients, ethnic minorities, non-documented mothers of split families, families made up of new immigrants, patients and their families, Hong Kong residents being detained at the Mainland, etc. They are our serving targets.

In the coming years, SoCO will stand together with the grassroots in supporting them fight for their rights and social justice. By doing so, we hope that we can realize our common dream of making “all members of human family equal”.

Society for Community Organization

3/F, 52 Princess Margaret Road,

Kowloon, Hong Kong

Tel: (852) 2713-9165

E-mail: soco@pacific.net.hk

Website: www.soco.org.hk

Fax: (852) 2761-3326

A. Regression of democratic development and not realization of right to political participation

In Hong Kong, the right to political participation is still seriously violated by an unfair electoral system and an “executive-dominated” political system. The Central People’s Government is like an invisible hand, which exerts enormous political pressure to the democratic development in Hong Kong.

1.1 An unjust electoral system

The Chief Executive is the head of the Hong Kong Special Administrative Region (SAR). However, the citizens of Hong Kong are deprived of the right to choose their top leader by universal and equal suffrage. In 2017, the Chief Executive was only elected by a 1,200-member Election Committee, which is comprised of 38 subsectors.

Serious retrogression occurred concerning the right of Hong Kong people to elect their representatives after the handover. Of the 70 members of the Legislative Council, only half are elected by geographical constituencies through direct elections. The other half, majority of them (30 out of 35), is elected by functional constituencies, which grants more voting rights to people of the professional and business sectors. This is **far from the standard of universal suffrage**.

1.2 An “executive-dominated” political system

The Basic Law grants enormous power to the Chief Executive, but seriously restricts the members of the Legislative Council from carrying out their responsibilities to supervise the executive and take policy initiatives.

Firstly, the **voting procedures greatly handicap the members of the Legislative Council** in supervising the government and making it accountable to the public. The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council requires a simple majority vote of *each* of the two groups of members present, i.e. the functional constituencies and the geographical constituencies¹. Since the functional constituencies are dominated by business and sectoral interests that support the government, the passing of government bills becomes much easier than passing individual members bills.

Secondly, Article 74 of the Basic Law de facto prevents the members of the Legislative Council from taking policy initiatives. The article stipulates that the members are barred from introducing member’s bills which relate to public expenditure, political structure or operation of the government².

1.3 The political intervention by the Central People’s Government

Although the Basic Law promised that the Chief Executive and all members of the LegCo should be ultimately returned by universal suffrage, Hong Kong residents were denied such fundamental right for many years.

It was first in 2007 that Beijing allowed for universal suffrage. However, this does not necessarily indicate that the universal suffrage will put in place. According to its decision made on 29 December 2007, the Standing Committee of the National People’s Congress (NPCSC) decision stipulates clearly that universal suffrage “**may be implemented**” for electing the Chief Executive in 2017 and after that, universal suffrage “**may be implemented**” for electing all the members of the LegCo. Moreover, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods for 2012 in accordance with the relevant provisions of the Basic Law. This means that universal suffrage **shall not be implemented** as stated in the timetable, which provides a lot of room for alternation in view of the political arena.

The Hong Kong SAR Government released the public consultation document on December 2013 to review the election method of the Chief Executive in 2017 and the Legislative Council in 2016.

In Hong Kong, the focus of debate is on the selection method of the candidate of the Chief Executive. It is argued that not only the nomination committee but also the general public should have the right to nominate the CE candidate. However, the Government rejected the proposal of “civil nomination” on the reason that it does

¹ Annex II of the Basic Law on the “Method for the Formation of the Legislative Council of the HKSAR and Its Voting Procedures”

² The worst is that the Hong Kong government interprets that Article 74 should also apply to amendments introduced by the members to government bills. The government is pushing the Legislative Council to follow such an interpretation. If the government succeeds to do so, the Legislative Council will become a rubber stamp of government policies.

not comply with the Basic Law. Moreover, the Beijing authority also release a White Paper on “One Country, Two System” to re-emphasize on the importance of one country under the ruling of the Central People’s Government. The apathetic attitude of the Beijing authority aroused tremendous criticism in Hong Kong locally.

On 31 August 2014 (831 decision), the National People’s Congress Standing Committee (NPCSC) announced its decision on the arrangement of the Chief Executive in 2017 by the method of universal suffrage and the major decisions are as followings:

- (1) A broadly representative nominating committee shall be formed. The provisions for the number of the members, composition and formation method of the nominating committee shall be made in accordance with the number of the members, composition and formation method of the Election Committee for the Fourth Chief Executive.
- (2) The nominating committee shall nominate 2 to 3 candidates for the office of Chief Executive in accordance with democratic procedures. Each candidate must have the endorsement of more than half of all the members of the nominating committee.
- (3) All eligible electors of the Hong Kong SAR have the right to vote in the election of the Chief Executive and elect one of the candidates of the office of Chief Executive in accordance with law.
- (4) The Chief Executive-elect, after being selected through universal suffrage, will have to be appointed by the Central People’s Government.

The NPCSC’s 813 decision aroused tremendous dissatisfaction from general public which was criticized as regression and was not a genuine universal suffrage. As a result, an Occupy Movement was started since 28 September 2014 at Admiralty, Mongkok and Causeway Bay respectively. The Occupy Movement lasted for 79 days and ended in mid-December 2014. The Hong Kong SAR Government insisted to strictly comply with the decision of the Beijing authority and declared to initiate the second round 2-month public consultation on constitutional development in January 2015.

As the Government proposal was treated under the proposal of Beijing authority, the pan-democratic camp generally opposed against the reform proposal. The reform proposal was criticized as distant from the international standard for universal suffrage. In 18 June 2015, the Governmental proposal was vetoed by the opposition party and unable to pass by the Legislative Council with 2/3 majority support. The Government stated that no additional consultation reform will be carried out, meaning that double universal suffrage impossible.

B. The lack of National Human Rights Institution (NHRI)

1.4. Limited powers of existing human rights institution

Although Hong Kong has already established many human rights’ related mechanisms, such as the Equal Opportunities Commission, the Ombudsman, Privacy (Personal Data) Commissioner etc, they have specific problems reflecting the need for a National Human Rights Institution (NHRI).

For instance the Equal Opportunities Commission (EOC), Privacy (Personal Data) Commissioner as well as other human rights monitoring institutions should be able to issue an enforcement notice in a general investigation. EOC is further limited by the fact that there is no guarantee that an application for legal assistance will be granted, given its limited budget. Regarding the Privacy Commissioner’s Office it is limited by the fact that it does not provide conciliation measures, legal advice or legal aid. Nor does it have powers to bring legal proceedings.

C. Poverty in an affluent city

Hong Kong has long been regarded as an international and prosperous city and one of the wealthiest societies in the world in terms of per capita GDP, which was HK\$ 360,220³ (USD\$46,182) in 2017. In reality, beyond the prosperity image, the **poverty problem in Hong Kong is deteriorating in both relative and absolute sense**. The general public cannot share the fruits of the economic growth and the economic re-structuring has led more unemployed and under-employed people to live in poverty. Worst still, the government has denied its responsibility and has not taken any active measures to ameliorate the widening income disparity and poverty.

³ Census and Statistics Department, 2017, Hong Kong Special Administrative Government.
<http://www.censtatd.gov.hk/hkstat/sub/so50.jsp>

1.5 Number of poor people increased

According to official statistics, more than **1,352,000 people lived below the poverty line in 2016** and they included low-income families, working elderly and the new immigrants from Mainland China. The population living in poverty made up 19.9% of the total population in 2016⁴.

Also, the Gini Coefficient of Hong Kong increased from 0.525 in 2001, 0.532 in 2006, 0.537 in 2011 and 0.539 in 2016! (higher Gini Coefficient denotes higher income inequality). The wealth gap in Hong Kong has further widened to a historic high, with the richest household now earning about 44 times what the poorest family scrapes together, despite government efforts to alleviate poverty.⁵ It is very ironic that this figure ranked top five among the developing countries although Hong Kong is one of the wealthiest societies in the world.

1.6 Absence of long term economic policy for grassroots employment

The unification of global economy since 1980s led to the global economic restructuring and altered the production process of the economy. It resulted to the polarization of division of labor between the developed countries and the developing countries. Hong Kong, which is one of the classic examples of developed regions, shifted its production from secondary industry to tertiary industry. For example, there is a significant decline of workers in the “Manufacturing” industry, with its share decreasing from 19% in 1996 to 4% in 2011, while the workers in tertiary industry from 60.6% in 1996 to 76.2% in 2011.⁶

As for the employment policy, the Hong Kong Government has the myth which strongly believed that under the laissez-faire philosophy, the free market is the inevitable hand that freely adjust and provide job opportunities to all walks of life. The principle of “big market, small government” is firmly stuck that no proactive economic planning or employment policy could be formulated to tackle the economic restructuring and employment difficulties of the grassroots laborers. The Government only focuses on the developing four pillar industries, including financial services, trading and logistics, professional services and tourism, which only provide a few job opportunities of high-skilled laborers, but not ample job vacancies for the low-skilled workers.

1.7 Absence of effective wealth distribution mechanism to tackle income polarization

As discussed earlier, since the local industry focuses on capital-raising and market services, which required a high knowledge and skills labors, while the industrial production was moved to the mainland China. This leads the low-skilled workers cannot meet the needs of the market and become over-supply that resulting in income-polarization.

The income re-distributive effective of the current government policy intervention is less significant than that of the other countries. For example, the change of Gini-coefficient (based on post-tax post social transfer monthly household income) of Hong Kong just slightly decreased 0.017 (2016) while that of Canada and the United Kingdom decreased 0.040 (2015) and 0.034 (2016/17) respectively.⁷ Near 1 million populations is still living in poverty even after policy intervention, while over half of the population (57.4%) belongs to low-income households (571,300 persons) in 2016.⁸

1.8 Children

⁴ Until now, there is no any official poverty line to define the population living in poverty. The number of population living poverty was defined in accordance with the definition of International Labour Organization (ILO) i.e. No. of persons in the households whose income are below half of the median household income.

⁵ South China Morning Post (9 June 2017) What hope for the poorest? Hong Kong wealth gap hits record high <http://www.scmp.com/news/hong-kong/economy/article/2097715/what-hope-poorest-hong-kong-wealth-gap-hits-record-high>

⁶ In 2011, the “Wholesale, retail and import/export trades, restaurants and hotels” became the largest sector. Its share in employment increased from 25% in 1996 to 30.1% in 2011. “Community, social and personal services”, which was the second largest sector, employing nearly 28.6% of the working population in 2011, while that of “Financing, insurance, real estate and business services” sector also increased to 17.5% in 2011. For further information, please refer to Census and Statistics Department, Hong Kong Special Administrative Region Government, 2006 Population By-census: Summary Results and 2011 Population Census: Thematic Report: Household Income Distribution in Hong Kong

⁷ Census and Statistics Department, Hong Kong Special Administrative Region Government (2017), Table 8.2 of 2016 Population Census: Thematic Report: Household Income Distribution in Hong Kong <https://www.statistics.gov.hk/pub/B11200962016XXXXB0100.pdf>

⁸ Hong Kong Poverty Situation Report 2016 (Nov 2017) [https://www.povertyrelief.gov.hk/eng/pdf/Hong_Kong_Poverty_Situation_Report_2016\(2017.11.17\).pdf](https://www.povertyrelief.gov.hk/eng/pdf/Hong_Kong_Poverty_Situation_Report_2016(2017.11.17).pdf)

Children suffer the most with the widening **disparity between rich and poor in Hong Kong**. There are 229,600 children age under 18 living in poverty and the child poverty rate in 2016 was 23.0%⁹ in Hong Kong. Living standards and development opportunities for these children are sadly compromised. They have to do their homework on their beds and earn their living at night collecting discarded paper, cartons and tins, in the center of an affluent Hong Kong. According to the recent research conducted by Society for Community Organization, it was found that one-fourth (25.2%) of the respondents of poor children have experienced starvation due to poverty and over one-fifth (20.9%) of the respondents expressed that they did not have three meals regularly every day¹⁰.

Although the Government introduced different measures to assist the children in poverty, such as Low-income family allowance and other programs, the number of children in poverty remains high. The Government did not pledge to introduce a goal or time table for eradicating child poverty in Hong Kong.

In November 2017, the Government announced that the public engagement will be conducted on establishing Children's Commission in Hong Kong. However, the design and content of public engagement does not favorable to child participation. The proposed Commission only defines the child as a person age under 15, which obviously contravenes with the definition of child under the United Convention on the Rights of the Child. Moreover, it is not a statutory body which does not embedded with investigate power to handle complaints of children's rights violation. The monitoring function of the Commission is in doubt.

C. Recommendations

1. It is urged that the government should comply with the concluding observations of the United Nations Human Rights Committee and provide a real promise for universal suffrage for the election of the Chief Executive and the Legislative Council.
2. The government should avoid seeking the Central People's Government to re-interpret the Basic Law, while the Central People's Government should avoid interpreting the Basic Law by itself in order to safeguard the high self-autonomy of the Hong Kong Special Administrative Region and the "One country, two systems" principle.
3. It is urged that the government should set up a National Human Rights Institution. Such a body should have the powers to receive complaints, investigate proactively, conciliate, adjudicate, provide legal advice, legal aid, bring legal proceedings and issue enforcement notices, court orders and have the power to review all government policies and make binding recommendations.
4. It is urged that the Government should introduce a comprehensive anti-poverty strategies and strengthens the wealth distributive mechanism in order to narrow the income disparity between the rich and the poor. Moreover, a special policy in relations to different specific marginalized groups, such as elderly and children should be introduced.
5. It is urged that the Children's Commission should be a statutory body and empowered with investigative power. It should be independent from the Government and accountable to general public. Moreover, children aged below 18 should join the nomination process and have their voices heard in the community.
6. The government should establish an independent monitoring body on the rights of the child and pursue an integrated and holistic approach to the adoption of legislation on the rights of the child.
7. To ensure the basic standard of living of retired persons, low-income families and unemployed persons, the Government should review its comprehensive social security system. The Government should resume the special grants to the welfare recipients.

⁹ Hong Kong Poverty Situation Report 2016 (Nov 2017)

[https://www.povertyrelief.gov.hk/eng/pdf/Hong_Kong_Poverty_Situation_Report_2016\(2017.11.17\).pdf](https://www.povertyrelief.gov.hk/eng/pdf/Hong_Kong_Poverty_Situation_Report_2016(2017.11.17).pdf)

¹⁰ Society for Community Organization (SoCO) *Research report on the Quality of Life of the Children living in poverty* (July 2011)

http://www.soco.org.hk/publication/private_housing/children_research_2011_7_24.doc