



## Submission to the Panel on Constitutional Affairs for The Third Review of the Hong Kong Special Administrative Region by the Working Group on the Universal Periodic Review of the United Nations Human Rights Council

April 2019

### Introduction

The Hong Kong Universal Periodic Review Coalition ('the Coalition') greatly appreciates the opportunity to provide a submission for the Panel on Constitutional Affairs ('the Panel') for The Third Review of the Hong Kong Special Administrative Region by the Working Group on the Universal Periodic Review (UPR) of the United Nations Human Rights Council.

The Coalition consists of 45 civil society organisations and was established to advance human rights in Hong Kong through the United Nations Universal Periodic Review process. The Coalition has been engaging with civil society, the international community, the United Nations and the government of the Hong Kong Special Administrative Region (HKSAR) for almost two years. The Coalition's work is facilitated by Justice Centre Hong Kong and guided by a Steering Committee.<sup>1</sup>

The Coalition is pleased that the Panel is considering the outcomes of the UPR on 15 April 2019. This meeting provides a valuable opportunity to obtain the views of civil society organisations and the public at large regarding implementation of the UPR recommendations. The Coalition stresses that any public policy and legislative reform arising from the UPR recommendations must ensure that civil society are genuinely consulted at all stages. The Coalition has developed several constructive proposals, which we believe should be implemented in response to the UPR outcomes. Each one reflects our view, that "established practice", which is regularly referred to by the HKSAR government, is not working.

The comments in this submission will focus on:

- the work of the Coalition;
- HKSAR government response to a Panel hearing before the Plenary Session;
- the Coalition's views on the UPR outcomes;
- the role of the Legislative Council in the UPR process; and
- recommendations in response to the UPR process.

### Overview of the Hong Kong UPR Coalition's Work

The Coalition has been at the centre of engagement in the Third Cycle UPR process. We have worked with a wide variety of civil society organisations, the government, Legislative Council members and the international community. Our previous submission to the Legislative Council for the Panel on Constitutional Affairs hearing held on 30 April 2018 outlined some of those

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<sup>1</sup> More information on the work of the Coalition is available at:  
<http://www.justicecentre.org.hk/policy-advocacy/universal-periodic-review/>



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activities since our formation in 2017 and is a useful resource for Legislative Council members.<sup>2</sup>

Notably, in March 2018, the Coalition lodged the Joint Submission to the United Nations Human Rights Council for the UPR. 45 civil society organisations endorsed the submission, either in whole or in part.<sup>3</sup> These organisations represent different interests and advocacy focuses, such as refugee rights, freedom of speech, rights of persons with disabilities, LGBTI rights, political rights, and much more. The submission speaks to the aspirations of civil society to build a more inclusive and equitable HKSAR.

We have undertaken the most comprehensive engagement for a UPR process ever in Hong Kong. A sample of our activities include:

- over 200 meetings with various stakeholders, such as local civil society organisations, government bureaux and foreign governments;
- seven press releases and two press conferences, leading to dozens of media articles in print, online and radio;<sup>4</sup>
- public engagement on social media, including Facebook and Twitter;
- detailed and public consultation process to produce a submission to the United Nations Human Rights Council, incorporating four drafting workshops;
- 24 fact sheets on a wide range of human rights issues, all of which are publicly available;<sup>5</sup>
- speech before the United Nations in Geneva at the UPR Info pre-session, the only solely Hong Kong focused group to be invited to speak;
- submission to the Office of the High Commissioner for Human Rights (OHCHR) on the role of parliaments in the Human Rights Council and its UPR;<sup>6</sup>
- submission and deputation to the Panel on the Universal Periodic Review;<sup>7</sup> and
- private briefings to individual members and groups of members from the Legislative Council.

The Coalition has adopted an independent approach towards engagement with members of the Legislative Council. We have sought meetings with all members and continue to do so. The Coalition stands ready to assist members with any questions on the UPR process.

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<sup>2</sup> Hong Kong UPR Coalition, Submission, 3rd report of the Hong Kong Special Administrative Region for the United Nations Human Rights Council Universal Periodic Review: Panel on Constitutional Affairs Consultation, 20 April 2018, available at:

<http://www.justicecentre.org.hk/framework/uploads/2018/03/Hong-Kong-UPR-Coalition-Steering-Committee-Submission-to-LegCo-Panel-on-Constitutional-Af....pdf>.

<sup>3</sup> Hong Kong UPR Coalition, Joint Civil Society Submission from the Hong Kong UPR Coalition, March 2018, available at:

[http://www.justicecentre.org.hk/framework/uploads/2018/UPR/HKUPRC\\_Submission\\_MARCH2018.pdf](http://www.justicecentre.org.hk/framework/uploads/2018/UPR/HKUPRC_Submission_MARCH2018.pdf).

<sup>4</sup> Each of the press releases are available in English and Chinese:

<http://www.justicecentre.org.hk/policy-advocacy/universal-periodic-review/>.

<sup>5</sup> Full list of fact sheets can be found at this webpage: <http://www.justicecentre.org.hk/policy-advocacy/universal-periodic-review/>.

<sup>6</sup> Hong Kong UPR Coalition, Submissions to the Office of the High Commissioner for Human Rights: The Role of the Hong Kong Legislative Council in the Human Rights Council and its Universal Periodic Review, January 2018, available at: <http://www.justicecentre.org.hk/policy-advocacy/universal-periodic-review/>.

<sup>7</sup> Ibid n2.



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## **HKSAR government response to a Panel hearing before the Plenary Session**

While the Coalition is pleased with this Panel hearing taking place, we are nonetheless disappointed with the reticence shown by the HKSAR government to appear before the Panel in advance of the 40th United Nations Human Rights Council Plenary Session ('the Plenary Session'), regarding the UPR recommendations made covering Hong Kong.<sup>8</sup>

On 3 January 2019, 24 Legislative Council members wrote to the Hon. Horace Cheung Kwok-kwan, Chairman of the Panel, to request that the Panel consider the UPR recommendations with the presence of representatives of the Hong Kong Government in advance of the Plenary Session on 15 March 2019. In a written response dated 15 January 2019, the Secretary stated that the Administration's position on the UPR recommendations will be formally presented to the Panel in April 2019 after the plenary session.<sup>9</sup> This means that the ultimate decision of the HKSAR government to "accept" or "note" the UPR recommendations was insulated from prior public comment.

As a result, as well as following suggestions arising from a meeting of the Human Rights Forum on 15 January 2019, the Coalition prepared an open letter to Ms Rosanna Law, Deputy Secretary, Constitutional and Mainland Affairs Bureau.<sup>10</sup> The letter outlined the Coalition's views on the UPR consultation process, recommendations, statements and questions in advance raised by states. We also understand that the Coalition's views contained in that letter as well as those raised in our meeting with in meeting with Mr Patrick Nip Tak-keun, JP, Secretary for Constitutional and Mainland Affairs, on 11 February 2019, were taken onboard.

The Coalition appreciates and welcomes the approach adopted by the Secretary in meeting with us. We are also glad to see that our views were considered, notably that all recommendations should have been accepted. While this level of engagement from the Secretary and CMAB staff has been greatly appreciate, the lack of a formal consultation before the Plenary Session limited the level of accountability and transparency in decision making processes. Given the potential impact that implementation of the UPR recommendations may have, it was disappointing that no formal consultation process was undertaken.

## **Coalition's Views on the UPR Outcomes**

Given the Coalition's extensive advocacy and central role in engaging with the UPR process on behalf of civil society organisations, we are pleased with the outcomes. In a first and unprecedented step, 12 countries used the UPR process to highlight concerns with the human rights environment in Hong Kong. We also welcome the acceptance of the recommendations by China on the HKSAR.<sup>11</sup>

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<sup>8</sup> Hong Kong UPR Coalition, Statement, 1 February 2019, available at: <https://www.facebook.com/HongKongUPR/>.

<sup>9</sup> Ms Judy Chung, for Secretary for Constitutional and Mainland Affairs, 'Panel on Constitutional Affairs: Joint Letter from 24 Members', 15 January 2019, available at: <https://www.legco.gov.hk/yr18-19/english/panels/ca/papers/cacb2-633-2-e.pdf>.

<sup>10</sup> Hong Kong UPR Coalition, 'Hong Kong UPR Coalition Views on Universal Periodic Review Third Cycle Outcomes', 4 February 2019, available at: <http://www.justicecentre.org.hk/framework/uploads/2019/02/2019-02-04-Hong-Kong-UPR-Coalition-Letter-to-CMAB-on-UPR-Outcomes-2.pdf>.

<sup>11</sup> Hong Kong UPR Coalition, News Release, 'Coalition Welcomes Acceptance of UPR Recommendations on Hong Kong at United Nations, Now is the Time for Action', 15 March 2019,



However, the Coalition is concerned with the decision not to accept the recommendation from Indonesia on the ratification of migrant workers convention. In the second UPR cycle, China accepted similar recommendations from Egypt, Ghana and Guatemala.<sup>12</sup> For the third cycle, the difference was the reference to Hong Kong. The Coalition is of the view that the decision not to accept Indonesia's recommendation can be attributed to the views of the HKSAR government. This outcome questions the commitments of the HKSAR government to instituting reforms which would help protect and promote the rights of migrant domestic workers. The Coalition calls upon the HKSAR government to outline clearly and publicly why Indonesia's recommendation was not accepted.

The Coalition strongly rejects any suggestions that the recommendations made during the UPR process have already been implemented, regardless of the public statements made the Central Authorities.<sup>13</sup> Foreign governments would not have made the recommendations if they thought what they were recommending had already been implemented. Let alone, would the Coalition have been formed and civil society representatives advocated for so hard and so long if concerns as raised by 12 countries were just a "misunderstanding".<sup>14</sup>

### **Role of Legislative Council in Monitoring Implementation of UPR Outcomes**

The Legislative Council plays a crucial role in translating international commitments into policies and laws. This includes monitoring and follow up of recommendations generated by the international human rights mechanisms and those which arise from the UPR. The Legislative Council stands to gain from engaging with the UPR process, to ensure that it has a positive impact. We note Human Rights Council resolutions 22/15 of 21 March 2013, 26/29 of 27 June 2014, 30/14 of 1 October 2015 and 35/29 of 23 June 2017, on the contribution of parliaments to the work of the Council and its UPR, as well as work from the Inter-Parliamentary Union and the Commonwealth Secretariat.<sup>15</sup>

Legislative Council members are crucial following the UPR outcomes stage in:

- ensuring that those recommendations are translated into law and policy;
- supporting the allocation of sufficient resources to facilitate implementation of programs linked to those recommendations;
- tasking specific committees concerned by the recommendations to reflect on them in depth and formulate concrete proposals;
- establishing a regular timetable for follow-up to the implementation of recommendations and encouraging respect for recommendation deadlines; and
- organising periodic debates with voters with a view to gauging the measures' impact.<sup>16</sup>

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available at: <http://www.justicecentre.org.hk/framework/uploads/2019/03/Press-Release-China-UPR-Plenary-ENG.pdf>.

<sup>12</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review, A/HRC/25/5, 4 December 2013.

<sup>13</sup> Ibid.

<sup>14</sup> Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, 'Response by CS at UNHRC Universal Periodic Review meeting', 6 November 2018, available at: <https://www.info.gov.hk/gia/general/201811/06/P2018110600982.htm>.

<sup>15</sup> Inter-Parliamentary Union and Commonwealth Secretariat, 'Strengthening the Role of Parliamentarians in the Implementation of Universal Periodic Review Recommendations: Conclusions', 12 and 13 November 2012, available at: <http://archive.ipu.org/splz-e/hr12/conclusions.pdf>.

<sup>16</sup> Ibid.



The Coalition has previously raised our concerns with monitoring and evaluation gaps in the Legislative Council regarding human rights mechanisms. This submission outlines several of our proposals further below. However, there are steps exclusively within the operations of the Legislative Council.

For example, there is currently no specialised committee in the Legislative Council operating on a continuous basis to monitor and examine government policy relating to human rights. A standalone human rights panel could assist throughout the HKSAR government in responding to the UPR process, increasing scrutiny on participation in the Human Rights Council and implementation of recommendations. The Coalition has consistently for such a committee, through submissions to the Human Rights Council and to the Office of the High Commissioner for Human Rights.<sup>17</sup>

### **Recommendations in Response to UPR process**

With five out of the six recommendations accepted, the HKSAR government has made a commitment to address international concerns by implementing changes to law and policy. This is a positive development. Being the first time that Hong Kong has attracted so much attention in the UPR, foreign governments will closely watch the government's response. It is an opportunity to show that when speaking about "connecting" and adhering to the rule of law and human rights as core values, they are more than just words.

If the government is determined to safeguard these values, while ensuring long-term prosperity and stability, as the Chief Secretary stated at the UN,<sup>18</sup> then doing nothing in response is not an option.<sup>19</sup> It is why the Coalition has come up with several proposals to help assist in the implementation of the recommendations. Each of these are interactive, collaborative and innovative policy initiatives, reflective of the kind of engagement that the Chief Executive has consistently called for.<sup>20</sup>

Additionally, taking specific steps to address human rights concerns from foreign governments would help to restore Hong Kong's international reputation, which has been harmed in the wake of the declining human rights environment. Measures which are reflective of the views of civil society organisations are likely to be well received internationally and would demonstrate that CMAB has been responsive to their concerns.

### **Proposed UPR Advisory Group**

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<sup>17</sup> Hong Kong UPR Coalition, Joint Civil Society Submission from the Hong Kong UPR Coalition, March 2018, available at:

[http://www.justicecentre.org.hk/framework/uploads/2018/UPR/HKUPRC\\_Submission\\_MARCH2018.pdf](http://www.justicecentre.org.hk/framework/uploads/2018/UPR/HKUPRC_Submission_MARCH2018.pdf). Hong Kong UPR Coalition, Submission, 3rd report of the Hong Kong Special Administrative Region for the United Nations Human Rights Council Universal Periodic Review: Panel on Constitutional Affairs Consultation, 20 April 2018, available at: <http://www.justicecentre.org.hk/framework/uploads/2018/03/Hong-Kong-UPR-Coalition-Steering-Committee-Submission-to-LegCo-Panel-on-Constitutional-Af....pdf>.

<sup>18</sup> Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, 'Speech by CS at United Nations Human Rights Council plenary meeting (with photos)', 15 March 2019, available at: <https://www.info.gov.hk/gia/general/201903/15/P2019031500785.htm>.

<sup>19</sup> Ibid, n11.

<sup>20</sup> Chief Executive, 'Speech by the Chief Executive in delivering "The Chief Executive's 2018 Policy Address" to the Legislative Council', 10 October 2018, available at: <https://www.policyaddress.gov.hk/2018/eng/speech.html>.



The Coalition's recommends the establishment of a UPR Advisory Group to respond to the UPR outcomes, including monitoring and implementing recommendations. An advisory group would help build constructive dialogue with civil society and the Administration on the UPR outcomes. A singular body would improve coordination and ensure that the appropriate and interested civil society organisations are represented, rather than spreading responsibility over existing bodies.

It is the view of the Coalition that while the Human Rights Forum ('the Forum') could complement the UPR Advisory Group, the Forum is not the most appropriate mechanism to respond to the UPR given its composition, the issues it covers and the timing of meetings. Further, the Coalition is of the view that the UPR Advisory Group would be a useful tool leading up to the mid-cycle review, assisting with consultation and the development of a mid-term report,<sup>21</sup> as well as responding to the fourth cycle.

The proposed UPR Advisory Group would be tasked with:

- monitoring and implementation of recommendations relating to the HKSAR during the UPR process;
- providing guidance on mid-term reporting for the UPR process;
- providing advice on mechanisms to improve consultation and engagement with civil society organisations; and
- any other tasks as the Advisory Group deems appropriate and related to activities connected to the UPR process, outcomes or subject matters.

In terms of structure, the Coalition proposes that the Advisory Group:

- consists of not less than 6 members and not more than 12 members, with members comprising an equal cross-section of representatives from civil society organisations and the HKSAR government;
- the Advisory Group shall meet at least three times per year, with additional meetings should be held as the work of the Advisory Group demands; and
- the Secretariat shall be housed within CMAB, with annual public reports issued at the end of each calendar year.

The Coalition has raised the proposal in a 11 February 2019 meeting with Mr Patrick Nip Tak-keun, JP, Secretary for Constitutional and Mainland Affairs. The Secretary was also joined by other senior representatives from CMAB. Following that meeting, the Coalition sent subsequent correspondence on 20 February 2019 and 2 April 2019, providing more details to CMAB regarding the UPR Advisory Group. This includes draft terms of reference for the UPR Advisory Group to further discussions with CMAB. The Coalition looks forward to a response from CMAB representatives to help advance this proposal.

### **Human Rights Recommendations Database**

The Coalition proposes the development of a human rights database of treaty body and UPR recommendations ('the database') and a transparent central monitoring and evaluation mechanism for their implementation, following meaningful consultation with civil society. The database would list every UPR and treaty body recommendation, the issuing body, the Administration's response, the subject matter issue, the relevant population group affected,

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<sup>21</sup> UPR Info, UPR Mid-term Reporting: Optimising Sustainable Implementation, 2018, available at: [https://www.upr-info.org/sites/default/files/generaldocument/pdf/upr\\_midterm\\_report\\_web\\_v1\\_high.pdf](https://www.upr-info.org/sites/default/files/generaldocument/pdf/upr_midterm_report_web_v1_high.pdf).



as well as outlining the actions that have been taken to respond to that recommendation. The database would provide a useful opportunity for the HKSAR government to provide its perspective on actions taken in response to concerns expressed locally and internationally, helping to address any perceived misunderstandings.

Additionally, the development of the database would greatly assist the Legislative Council. At present, CMAB, among other bureaus, are asked questions about the government's response or actions in response to various human rights and treaty body processes. Having a regularly updated database would greatly aid in improving transparency, efficiency and accountability. It would also align with the commitments of the Chief Executive to implement interactive, collaborative and innovative policy initiatives.<sup>22</sup>

At present, the CMAB website only lists the reports under the UPR and various human rights treaties procedures.<sup>23</sup> While this information is kept up to date and is helpful, there is still no central monitoring and evaluation mechanism of treaty body and UPR recommendations. Working with civil society and releasing available data on responses in a comprehensive manner, would be in line with the Chief Executive's vision of turning Hong Kong into a smart city as outlined in her 2018 Policy Address.<sup>24</sup>

The Coalition also raised the proposal in a 11 February 2019 meeting with Mr Patrick Nip Tak-keun, JP, Secretary for Constitutional and Mainland Affairs. Following that meeting, the Coalition sent subsequent correspondence on 20 February 2019 and 9 April 2019, providing more details to CMAB regarding the database. This includes a draft database to further discussions with CMAB. The Coalition looks forward to a response from CMAB representatives to help advance this proposal.

### **Improving Human Rights Consultation Mechanisms**

The Coalition proposes three reforms to improve the consultation processes for UPR and treaty body processes. The first part is standardising a new practice, whereby draft UPR and treaty body reports are provided in advance for civil society to provide feedback on. Such an approach would greatly improve transparency and accountability. The current process of providing outlines is problematic as the outlines lack information and, in our experience, civil society views are not substantively incorporated in the final reports. Such was the case with the government's section of the national report for the UPR process. CMAB's approach ends up leading to diminished interest from stakeholders and a lower quality of contributions.

The second part is the development of an institutionally separate mechanism within government, responsible for coordination, report writing and consultation. The mechanism, established through formal regulation or policy mandate, would build upon what currently exists in CMAB, strengthening and institutionalising existing processes. To that end, we recommend consideration of a report from the United Nations Office of the High Commissioner for Human Rights which outlines mechanism designs and positive case studies.<sup>25</sup>

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<sup>22</sup> Ibid n20.

<sup>23</sup> See: [https://www.cmab.gov.hk/en/press/reports\\_human.htm](https://www.cmab.gov.hk/en/press/reports_human.htm).

<sup>24</sup> Chief Executive, 'The Chief Executive's 2018 Policy Address: Striving Ahead Rekindling Hope', 10 October 2018, available at: <https://www.policyaddress.gov.hk/2018/eng/pdf/PA2018.pdf>.

<sup>25</sup> United Nations Office of the High Commissioner for Human Rights, National Mechanisms for Reporting and Follow-up, 2016, available at: [https://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](https://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).



The third part is reforming the range of consultation options for civil society to provide feedback on and enhancing access for persons with a disability. We encourage the development of consultation questionnaires assist with providing feedback. This measure would help increase the number of submissions received and similarly assist persons with disabilities. The Coalition is willing to work with government representatives and Legislative Council members to help design such tools. We also encourage the government to make consultation documents available in easy read format and in braille to increase the level of engagement by disability rights civil society organisations and persons with disabilities. This would help to build on the positive measure taken in providing the UPR outline for the third cycle in six ethnic minority languages.

## **Statements and Questions in Advance Remain Outstanding**

### **Response to Statements raised in UPR hearing**

The Coalition notes that for the first time there were two statements raised by foreign governments during the UPR hearing. They were from Ireland and the United Kingdom.<sup>26</sup> The statements were a valuable opportunity for the HKSAR government to respond to human rights concerns by United Nations member states.

Unfortunately, the Chief Secretary did not take the opportunity at the 6 November 2018 hearing or the 15 March 2019 Plenary Session to respond directly to those statements. In the case of the comments from Ireland, given concerns with gaps in Hong Kong's anti-discrimination laws which have been raised consistently by treaty bodies and now a foreign government in the UPR process, the meetings were a valuable opportunity to speak to an international audience and identify positive legislative measures that would be undertaken to protect marginalised sectors of Hong Kong society. Responding in such forums would have sent a strong signal about the HKSAR's commitment towards being 'Asia's World City' and support for an open, inclusive and diverse city.

The Coalition also urges the HKSAR government to respond to the statement from the United Kingdom at the upcoming UPR plenary session with regards to the application of rights and freedoms guaranteed by the Sino-British Joint Declaration ("the Joint Declaration") in Hong Kong. The Coalition remains concerned by comments from the Central Authorities that suggest the Joint Declaration is "a historical document that no longer had any practical significance".<sup>27</sup> The Joint Declaration remains a legally binding document which covers the protection and promotion of human rights in the HKSAR.

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<sup>26</sup> The statements were as follows:

- Ireland: Ireland continues to urge China, including Hong Kong and Macao, to establish a comprehensive anti-discrimination law to protect all marginalised groups, including LGBTI persons.
- United Kingdom: We urge China to respect the rights and freedoms guaranteed by the Sino-British Joint Declaration in Hong Kong.

<sup>27</sup> Hong Kong UPR Coalition, Submission to the United Kingdom Joint Committee on Human Rights Human Rights Protections in International Agreements inquiry, 'Written submission from the Hong Kong UPR Coalition', 23 January 2019. Available at:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rightscommittee/human-rights-protections-in-international-agreements/written/94919.html>.





The Coalition is troubled with the Administration's approach in consistently referring to non-interference when human rights concerns are raised by foreign governments,<sup>28</sup> including in situations applicable to the Joint Declaration.<sup>29</sup> Human rights are universal, indivisible, interdependent and interrelated. Article 2(7) of the Charter of the United Nations, resolutions 25/2625 and 36/103 of the General Assembly, which have been cited in justifying the use of the non-interference principle by the HKSAR, are primarily concerned with the threat of force. The HKSAR's continued use of the non-interference principle is incorrect as a matter of international law and inconsistent with the government's desire to promote Hong Kong as 'Asia's World City', a cosmopolitan city that has a global outlook.<sup>30</sup>

### Response to Questions in Advance from UPR

The Coalition notes that for the first time there were four questions in advance raised by foreign governments prior to the UPR hearing. Those questions were from; Germany, the Netherlands, Switzerland and the United States of America.<sup>31</sup> The questions were a valuable opportunity for the government to respond to human rights concerns by United Nations member states.

At the 6 November 2018 hearing, the Chief Secretary was provided with an opportunity to address each of the questions. However, given that he did not outline which comments were in response to each question it is difficult to discern what those responses were. The Coalition has also analysed the Chief Secretary's comments in our 4 February 2019 open letter to Ms Rosanna Law, Deputy Secretary, Constitutional and Mainland Affairs Bureau.<sup>32</sup>

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<sup>28</sup> For example, Government of the Hong Kong Special Administrative Region, Press Release, 'Response to UK Report on Hong Kong', 15 March 2018, available at: <https://www.info.gov.hk/gia/general/201803/15/P2018031500852.htm>.

<sup>29</sup> Government of the Hong Kong Special Administrative Region, Press Release, 'LCQ5: The Joint Declaration on the Question of Hong Kong', 17 December 2014, available at: <https://www.info.gov.hk/gia/general/201412/17/P201412170731.htm>.

<sup>30</sup> Brand Hong Kong, 'What is Brand Hong Kong?', last revision date 10 January 2019, available at: <https://www.brandhk.gov.hk/html/en/BrandHongKong/WhatIsBrandHongKong.html>.

<sup>31</sup> The questions were as follows:

- Germany: How do the interpretations of the Hong Kong laws by the NPCSC ensure that freedom of press and opinion are upheld in consistence with the provisions under the Basic Law and the HKSAR Bill of Rights?
- Switzerland: Former High Commissioner expressed his concerns regarding the disappearance of booksellers in Hong Kong, including Swedish citizen Gui Minhai. What is his current status and will there be a public and independent investigation into the circumstances regarding the disappearance of booksellers?
- The Netherlands: To the government of the Hong Kong Special Administrative Region: which steps does Hong Kong intend to take to address international concerns about press freedom in Hong Kong and to ensure a safe and enabling environment for journalists to carry out their work independently and without undue interference?
- United States of America: What is China's response to growing international concern about Beijing's continued encroachment on Hong Kong's autonomy, the abduction of individuals from Hong Kong, and growing restrictions on the freedoms of expression, association, and political participation in Hong Kong?

<sup>32</sup> Hong Kong UPR Coalition, 'Hong Kong UPR Coalition Views on Universal Periodic Review Third Cycle Outcomes', 4 February 2019, available at: <http://www.justicecentre.org.hk/framework/uploads/2019/02/2019-02-04-Hong-Kong-UPR-Coalition-Letter-to-CMAB-on-UPR-Outcomes-2.pdf>.



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Representatives from the Coalition have queried whether the questions were considered to have been answered, notably at the Human Rights Forum meeting on 15 January 2019. Officials from CMAB responded that the Chief Secretary tried to respond to the questions. However, thus far no public statement has been given to the effect that the government is of the view that the questions have been answered. Nonetheless, it remains the view of the Coalition that the questions have not adequately been answered or not answered at all.

Disappointingly, when the Plenary Session was held on 15 March 2019, the Chief Secretary did not respond to the outstanding questions in advance. The Coalition reiterates yet again, the importance for the HKSAR government to respond publicly to the questions in advance. Responding publicly will demonstrate a commitment transparency, consistent with a commitment to continue engaging constructively with United Nations human rights mechanisms and foreign governments.

### **Recommendations**

The Coalition recommends that Legislative Council members:

- express public and private support for meaningful and considered engagement by CMAB, as well as all other relevant departments and bureaus working on law and policy covered by the UPR, including calls for:
  - regular meetings with civil society representatives;
  - prompt responses to emails, letters and other correspondence; and
  - consultation consistent with the principles and rights contained in the United Nations Declaration on Human Rights Defenders.
- support the development of a standalone human rights panel in the Legislative Council; and
- express support for a human rights database of treaty body and UPR recommendations.

The Coalition recommends that the government:

- establish a cross-sector government and civil society UPR advisory group to monitor and implement the recommendations;
- develop a human rights database of treaty body and UPR recommendations, following meaningful consultation with civil society; and
- implement reforms to treaty body and UPR consultation processes, including:
  - all draft reports should be provided in advance for civil society consultation;
  - development of an institutionally separate mechanism in government for coordination, report writing and consultation; and
  - reforms to the range of consultation options and increasing access to persons with a disability.
- publicly respond to outstanding statements and questions in advance, which have so far not been addressed by the Chief Secretary in speeches to the United Nations; and
- publicly provide reasons as to the decision which led to the recommendation from Indonesia not being supported.

For further information please contact Simon Henderson, Spokesperson, Hong Kong UPR Coalition and Senior Policy Advisor, Justice Centre Hong Kong ([simon@justicecentre.org.hk](mailto:simon@justicecentre.org.hk)).