

## **HKSAR Government welcomes constructive dialogue with the UN Human Rights Committee**

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A Home Affairs Bureau spokesperson announced today (April 1) that the United Nations Human Rights Committee (the Committee) had issued its concluding observations on the second report of the Hong Kong Special Administrative Region (HKSAR) in the light of the International Covenant on Civil and Political Rights (ICCPR).

"The Government welcomes the Committee's endorsement of the process of consultations undertaken by the HKSAR for the preparation of its report in the light of the ICCPR," the spokesperson said. "We are pleased that the Committee appreciates the constructive dialogue it has with the delegation who provided comprehensive replies to written and oral questions formulated by the Committee."

The concluding observations were published on March 31 (New York time), after the Committee's hearing of the report on March 20-21. A 10-member delegation led by Permanent Secretary for Home Affairs, Mrs Carrie Lam, attended the hearing in New York.

"In the concluding observations, the Committee commended Hong Kong in a number of important areas, including our efforts in meeting the needs of minority communities and in the promotion of racial harmony and non-discrimination on the grounds of sexual orientation, the establishment of an administrative procedure for the assessment of claims of torture made by persons facing deportation, and our measures in combating domestic violence. We welcome the Committee's kind remarks, which demonstrate its recognition of our efforts and effectiveness in safeguarding human rights in the HKSAR," the spokesperson said.

The concluding observations also included the Committee's concerns and recommendations in certain areas, which the spokesperson said should be viewed in the proper context.

"The HKSAR Government holds the Committee and its views with the highest regard. We implement the Committee's recommendations, either wholly or in part, where they were feasible, practicable, affordable and in line with local

circumstances," the spokesperson said.

"That said, it remains a fact that unlike international laws, the recommendations made by the United Nations' treaty monitoring bodies are of an exhortatory nature rather than legally-binding. We appreciate the Committee's good will in making those recommendations. But the Government has the ultimate responsibility for the governance and well being of our people and must act as we, as the authorities on the spot, judge to be right in the prevailing circumstances. This being our highest priority, we must sometimes respectfully differ with the Committee as to what can or should be done."

The spokesperson said that such was the position adopted towards the Committee's repeated recommendation that the Government should establish an independent human rights institution in Hong Kong.

"We note the Committee's concern and recommendation in this regard. However, we consider that Hong Kong's current human rights framework, underpinned as it is by the rule of law, an independent judiciary, a comprehensive legal aid system, our three human rights institutions - namely the Equal Opportunities Commission, the Ombudsman, and the Office of the Privacy Commissioner for Personal Data, and a free and vigilant media corps, provides sufficient protection and support for human rights in the SAR. We therefore see no obvious need for another human rights institution and have no plans or timetable for the establishment of such an institution in the immediate future."

As regards the Committee's recommendation regarding an independent police complaints body, the spokesperson said: "The Complaints Against Police Office (CAPO), which is responsible for investigating into complaints against the police, operates independently of all operational and support formations of the Police Force. And the Independent Police Complaints Council (IPCC), an independent body comprising non-official members from a wide spectrum of the community, closely monitors and reviews CAPO investigations. The IPCC is equipped with adequate means to ensure that each and every complaint is investigated thoroughly and properly. CAPO addresses any queries that the Council may raise about a case and will re-investigate the case if the Council so requests. We are taking steps to convert the IPCC into a statutory body, and are preparing the necessary legislative proposals," the spokesperson added.

"Turning to the concerns that the Committee has expressed in respect of Article

25(b) of the Covenant (which provides for elections by universal suffrage), our position remains that, when ratifying the Covenant, the United Kingdom reserved the right not to apply that provision in so far as it might require the establishment of an elected Executive or Legislative Council in Hong Kong. With every respect due to the Committee, we have to strongly disagree with the Committee's view that this reservation lapsed once elections to the Legislative Council were introduced. It is our firm view that the reservation remains fully operative," the spokesperson said.

As regards Hong Kong's constitutional development and progress towards democracy, the spokesperson said: "Both the Central Authorities and the Government are fully committed to promoting constitutional development in accordance with the Basic Law and the Decision of the Standing Committee of the National People's Congress (NPCSC) of April 2004, with a view to achieving the ultimate aim of universal suffrage."

"The proposed package for the electoral methods for 2007/08 put forth by the Government in October last year would have greatly enhanced the democratic representation in the electoral methods for election of the Chief Executive and the Legislative Council, and brought significant progress to Hong Kong's constitutional development. It is regrettable that the package, which was supported by the majority of the public and more than half of the Legislative Council Members, was not endorsed by a two-thirds majority of all Legislative Council Members as required in Annexes I and II of the Basic Law."

"Hong Kong's electoral system shall be determined in accordance with the Basic Law and the Decision of the NPCSC of April 2004. Our electoral system is appropriate to Hong Kong's circumstances and gives rise to no incompatibility with any of the provisions of the Covenant as applied to the HKSAR."

"The Government is fully alive to the public's aspirations for universal suffrage. In November last year, the Chief Executive initiated the discussion on formulating a roadmap for universal suffrage through the Commission on Strategic Development. The Commission aims to draw conclusions on the discussions by early 2007 and hope that this will provide a basis for us to commence our next phase of work," the spokesperson added.

As regards the NPCSC's interpretation of the Basic Law, the spokesperson said

that according to Article 158 of the Basic Law, the NPCSC shall consult its Committee for the Basic Law before giving an interpretation of the Basic Law. "This was done on all past three occasions when the NPCSC interpreted the Basic Law. In any case, none of the three interpretations conflict with the ICCPR as applied to Hong Kong."

We noted that the Committee was generally in favour of having a clear legislative framework in place on matters relating to human rights. The spokesperson said: "The Government has already introduced a bill into the Legislative Council to establish a new legislative regime to regulate interception of communication and covert surveillance operated by law enforcement agencies. The proposals were formulated taking into account, inter alia, the latest human rights jurisprudence on the subject." The spokesperson added: "We are at an advanced stage of drafting a bill to tackle racial discrimination and are committed to reviewing the Domestic Violence Ordinance."

Turning to the Committee's concerns about the intimidation and harassment against media personnel and the incidents of vandalism and nuisance against Legislative Council Members, the spokesperson assured the public that the Police had most seriously pursued the cases in accordance with the law, and there were no indications that these events had affected the freedom of speech in Hong Kong.

As regards the Committee's remark that the HKSAR Government had not provided information on this issue, the spokesperson explained that the request was made during the hearing and it was just not possible to supply the information in time before the Committee's concluding observations. "We stand ready to provide the necessary information at the next earliest opportunity," the spokesperson added.

On the Committee's observations regarding Hong Kong residents detained on the Mainland, the spokesperson said that the HKSAR Government will continue to make full use of the Reciprocal Notification Mechanism established with the Mainland Authorities to inform family members of the affected Hong Kong residents. The mechanism established since 2001 has been operating smoothly and the Hong Kong and Mainland authorities will review it periodically to ensure that it meets the needs of Hong Kong residents in distress.

Regarding the issue of domestic violence, the spokesperson noted the Committee's appreciation of the efforts made by relevant government departments so far. "We can

assure the Committee that Hong Kong will spare no efforts in combating domestic violence through cross-sector co-operation, enhanced training for police officers and support programmes for victims and offenders," the spokesperson added.

Under Article 39 of the Basic Law, the provisions of the ICCPR shall remain in force and shall be implemented through the laws of the HKSAR. ICCPR is one of the six international treaties applied to Hong Kong which carry reporting obligations.

Hong Kong's next report in the light of the ICCPR is due in 2010 and will contain the Government's detailed response to the Committee's recommendations. "In the interim, we will as requested by the Committee provide information on the progress made in a number of areas in a year's time," the spokesperson said.

The Home Affairs Bureau will upload the Committee's concluding observations onto its website and distribute copies to the judicial, legislative and administrative authorities. Hard copies are now available to the media as well as members of the public on request from the Duty Officer, Information Services Department or the Bureau's Information Unit.

Ends/Saturday, April 1, 2006