

Press Releases

Translation of opening remarks by the Permanent Secretary for Security at the hearing held by the UN Committee against Torture

Following is the translation of the opening remarks by the Permanent Secretary for Security, Mr Joshua Law, at the hearing held today (November 17, Geneva time) by the United Nations Committee against Torture in consideration of the third periodic report of the Hong Kong Special Administrative Region under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Geneva, Switzerland:

The Government of the Hong Kong Special Administrative Region (HKSAR) has always strived to protect human rights and fulfil the requirements and commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) and other international human rights instruments that are applicable to the HKSAR.

The Basic Law of the HKSAR provides a solid foundation for full protection of the rights and freedoms of our residents and other persons. The common law, the Hong Kong Bill of Rights Ordinance and other pieces of legislation also provide comprehensive protection of human rights. Furthermore, the HKSAR enjoys independent judicial power, including that of final adjudication, in accordance with the Basic Law.

The new policies and legislation promulgated since the submission of the third report in 2013 are set out in the written reply we submitted in response to the list of issues raised by the Committee against Torture (the Committee), which I do not intend to repeat here. However, I wish to address a few areas of the Committee's concerns by highlighting the developments that have taken place since the HKSAR submitted our last report.

Public meetings, processions and demonstrations

Hong Kong residents enjoy the right and freedom of assembly, procession and demonstration under the Basic Law. In 2014, over 6800 public meetings and processions took place in Hong Kong. The Hong Kong Police Force (the Police) has always strived to facilitate the smooth conduct of lawful and peaceful public meetings and processions, while at the same time reducing the impact of these events on other members of the public and ensuring public order and public safety. If there is any illegal act, the Police have a duty to take enforcement action to maintain law and order. The Police have stringent guidelines on the use of force. The force to be used by the Police shall be the minimum force necessary according to the circumstances at the time and for achieving a lawful purpose.

The illegal occupation which took place in Hong Kong last year lasted for 79 days. In order to avoid large scale confrontations, the Police have exercised a high degree of tolerance and restraint in dealing with the illegal acts of unlawful assemblies and illegal blockage of roads by protestors. Eventually, the illegal occupation ended in a

Moreover, there is a well-established police complaint handling mechanism in Hong Kong. The Independent Police Complaints Council (IPCC) Ordinance came into effect on June 1, 2009 and has transformed the IPCC into an independent statutory body. The IPCC possesses statutory power to monitor the Police's handling and investigation of complaints so as to ensure that any dissatisfaction of members of the public towards police officers can be handled fairly and impartially. The IPCC will perform its statutory function to make recommendations to the Police with a view to improving its work procedures. In recent years, the Police have implemented various measures to enhance public understanding of police work so as to reduce complaints arising from misunderstandings. As a matter of fact, reportable complaints received by the Police in the first three quarters of this year decreased by 26% over the same period last year.

In addition, the Police always respect the rights of persons under custody and endeavour to improve the treatment of detainees. Detainees can meet with their lawyers in private. The Police will also provide them with meals and personal hygiene packs, and arrange washing or shower for them. In 2008, the Police reviewed the custody management policy and have since improved their detention facilities. Such improvement works included installation of shower cubicle doors to protect privacy, improvement of ventilation and provision of directional signs to meet detainees' religious needs, etc. To strengthen the protection of the rights of detainees, the Police have also updated the custody search guidelines and translated forms and notices for persons in custody into 15 ethnic minority languages.

The Unified Screening Mechanism

On the screening of non-refoulement claims, the HKSAR Government implemented an enhanced screening mechanism in 2009 to screen non-refoulement claims under Article 3 of the Convention. Improvement measures include provision of publicly-funded legal assistance and interpretation services, establishment of an appeal mechanism which operated independently, and strengthening training of all decision-makers, so as to ensure that the screening procedures could meet the "high standards of fairness" required by the courts of the HKSAR. In 2012, the Legislative Council of the HKSAR amended the Immigration Ordinance (Cap.115) to underpin the screening procedures by statute, including the establishment of the statutory Torture Claims Appeal Board. In 2014, the HKSAR Government implemented the unified screening mechanism to screen, under the aforementioned procedures, non-refoulement claims against return to another country lodged on, apart from torture, other grounds including cruel, inhuman or degrading treatment or punishment and persecution. The scope of this mechanism has exceeded what is required under Article 3 of the Convention.

The HKSAR Government has also been providing humanitarian assistance to all claimants, including accommodation, food, clothing, other basic necessities, transportation and utilities allowances, medical services and education for minors, to ensure that they would not fall destitute whilst their claims are pending determination. In 2014, the HKSAR Government reviewed

and increased the assistance levels of rent, food, and other items, and started providing rental deposit and property agent fees. In 2015, we introduced food coupons in lieu of the provision of in-kind food assistance.

Facing a drastic increase in the number of claimants, we will review all areas of the non-refoulement claim screening procedures and consider whether the legislation should be amended to expedite the process whilst maintaining high standards of fairness, so that genuine claimants can be afforded non-refoulement protection as soon as possible.

Domestic violence

On the protection of victims of domestic violence, the HKSAR Government amended the Domestic Violence Ordinance twice, in 2008 and 2010, to extend its protection to former spouses, former cohabitating couples, immediate and extended family members, same-sex cohabitants and former same-sex cohabitants.

Gender Recognition

On gender recognition, the HKSAR Government set up last year an Inter-departmental Working Group on Gender Recognition (IWG) which is headed by the Secretary for Justice. It will examine in detail the legal issues relating to transsexual persons in Hong Kong, conduct a comparative study of relevant legislation, jurisprudence and systems of other countries, and make recommendations for reform as appropriate. In the course of its work, the IWG has met and listened to the views of different stakeholders. The IWG will conduct a public consultation on this subject.

Conclusion

Mr Chairperson and members, we are happy to answer any questions from the Committee and will make every endeavour to provide full responses to your enquiries.

Thank you.

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