

Hong Kong Human Rights Action Plan

September 2012

The first-ever National Human Rights Action Plan of China (2009-2010) was published in April 2009. Drafted in response to an United Nations' call, the Chinese Plan was "aimed at improving laws and regulations upholding human rights and advancing the cause of China's human rights in accordance with the law". Distinctly absent in China's Plan, however, was any measures in relation to its two special administrative regions. The impetus¹ for this new project by the Centre for Comparative and Public Law was to fill part of the gap in the Plan by formulating an action plan for Hong Kong.

CCPL's Hong Kong Human Rights Action Plan (HKHRAP) was drafted from the current recommendations of the international human rights treaty bodies to which Hong Kong, China has reporting obligations. The HKHRAP 2012 has 145 recommendations organised under the main headings of I. Civil Rights, II. Political Rights, and III. Economic, Social and Cultural Rights.

While the Hong Kong Government has addressed some of these recommendations already,² many remain outstanding. The goal of this project is to focus public attention and encourage dialogue on the most pressing human rights issues in Hong Kong with a view to achieving full compliance with Hong Kong's international obligations. With greater public understanding and a concerted effort, we believe significant progress towards full compliance can be made with each reporting period. The HKHRAP is an instrument that can be used to track Hong Kong's human rights development and adherence to international standards.

¹ We especially thank André Frankovits and the Human Rights Council of Australia for proposing and working with us on this project. We also thank Yvonne Ngai for her helpful research assistance.

² The Hong Kong Special Administrative Region (HKSAR) regularly submits reports on its implementation of the relevant treaties, which form part of the People's Republic of China (PRC)'s reports. These reports also include responses to any follow-up on the recommendations of the relevant UN Committees. The HKSAR's reports are available online:

http://www.cmab.gov.hk/en/press/reports_human.htm. Furthermore, the HKSAR has submitted the third report on its implementation of CEDAW in Hong Kong as part of the combined seventh and eighth reports submitted by the PRC to the United Nations earlier this year. The report also responds to the concluding comments of the UN Committee on the Elimination of Discrimination against Women after its hearing on the previous report. The HKSAR's report is available online: http://www.lwb.gov.hk/UNCEDAW/documents/CEDAW_3rd_report_E.pdf.

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I. Civil Rights

1. Torture

1. Hong Kong should consider adopting a more inclusive definition of the term “public official” in the definition of torture as to clearly include all acts inflicted by or at the instigation of or with the consent or acquiescence of all public officials or other persons acting in an official capacity.³

2. Hong Kong should ensure that the definition comprises all the elements contained in article 1 of CAT, including discrimination of any kind.⁴

3. Hong Kong should consider abolishing the defense contained in section 3(4) of the Crimes (Torture) Ordinance (Cap 427); to this end, Hong Kong could, for instance, incorporate article 1 of CAT into its Basic Law, as it has done with article 7 of the ICCPR.⁵

4. Hong Kong should ensure that health care professionals are equipped with the necessary training and information to recognise and detect signs and features that may suggest the occurrence of torture, as well as to provide gender sensitive treatment in legal and medical institutions.⁶

2. *Non-refoulement*, Refugees and Asylum-seekers

5. Hong Kong should establish an appropriate mechanism to assess the risk faced by individuals expressing fears of being victims of grave human rights violations, such as those contrary to articles 6 and 7 of the ICCPR, in the location to which they may be returned.⁷

6. Hong Kong should consider adopting a legal regime on asylum by establishing a comprehensive and effective procedure to examine thoroughly, when determining the applicability of its obligations under article 3 of CAT, the merits of each individual case.⁸

7. Hong Kong should guarantee the rights of asylum-seekers to information, interpretation, legal assistance and judicial remedies.⁹

³ CAT Concluding Observations 2008, § 5

⁴ CAT Concluding Observations 2008, § 5

⁵ CAT Concluding Observations 2008, § 6

⁶ CAT Concluding Observations 2008, § 9

⁷ HRC Concluding Observations 2006, § 10

⁸ CAT Concluding Observations 2008, § 7; CERD Concluding Observations 2009, § 29

⁹ CERD Concluding Observations 2009, § 29

8. Hong Kong should incorporate the provisions contained in article 3 of CAT (*non-refoulement* obligation) under the Crimes (Torture) Ordinance (Cap 427).¹⁰
9. Hong Kong should ensure that adequate mechanisms for the review of the decision are in place for each person subject to removal, expulsion or extradition.¹¹
10. Hong Kong should ensure effective post-return monitoring arrangement.¹²
11. Hong Kong is encouraged to ratify the 1951 Refugee Convention Relating to the Status of Refugees and 1967 Protocol.¹³
12. If resorting to the use of “death penalty safeguards” in the surrender of fugitive offenders/sentenced persons, Hong Kong should provide the CAT Committee, in its next report, with the following information: (a) the number of cases where “surrender” or removals subject to safeguards or guarantees have occurred in the reporting period, (b) Hong Kong’s minimum requirements for these safeguards, (c) the measures of subsequent monitoring undertaken by HKSAR in such cases as well as the legal enforceability of these safeguards.¹⁴

3. Trafficking Victims

13. Hong Kong should increase protection, including recovery and reintegration, to trafficked persons, especially women and children, who should be treated as victims and not criminalised.¹⁵
14. Hong Kong is urged to ensure respect for the necessary procedural safeguards when deporting victims of trafficking in persons, particularly when such victims are minors, and to provide them with the necessary medical, psychological and legal support.¹⁶

4. Other Forms of Ill-treatment

A. Strip search and body cavity search

15. Hong Kong should ensure that strip searches for persons in police custody are limited to cases where there is a reasonable and clear justification.¹⁷

¹⁰ CAT Concluding Observations 2008, § 7

¹¹ CAT Concluding Observations 2008, § 7

¹² CAT Concluding Observations 2008, § 7

¹³ CAT Concluding Observations 2008, § 7; CERD Concluding Observations 2009, § 29; CEDAW Concluding Observations 2006, § 44

¹⁴ CAT Concluding Observations 2008, § 8

¹⁵ CAT Concluding Observations 2008, § 7

¹⁶ ICESCR Concluding Observations 2005, § 97

¹⁷ CAT Concluding Observations 2008, § 10

16. If carried out, the search has to be conducted with the least intrusive means and in full conformity with article 16 of CAT.¹⁸
17. Hong Kong should provide an independent mechanism to monitor strip searches, upon request of the detainee.¹⁹
18. Hong Kong should establish precise and strict guidelines regulating the strip searches conducted by all law-enforcement officials, including those from the Immigration and Correctional Services Department.²⁰
19. If guidelines are already in place, officials should strictly abide by them and their observance should be consistently monitored.²¹
20. Records of strip searches should be made and all abuses committed should be thoroughly investigated and, if substantiated, punished.²²
21. Hong Kong should seek alternate methods to body cavity search for routine screening of prisoners.²³
22. If a body cavity search must be conducted, it must be only as a last resort and should be performed by trained health personnel and with due regard for the individual's privacy and dignity.²⁴

B. Police operations

23. Hong Kong should tackle, including through training and awareness-raising activities, all existing attitudes suggesting that abuses committed during police operations in the context of prostitution-related offences, may be condoned.²⁵
24. Hong Kong authorities should thoroughly investigate all allegations of abuses committed during police operations in the context of prostitution-related offences which, if substantiated, should be appropriately prosecuted and punished.²⁶
25. Hong Kong should continue to take steps to establish a fully independent mechanism mandated to receive and investigate complaints on police misconduct. This body should be equipped with the necessary human and financial resources and have the executive authority to formulate binding recommendations in respect of

¹⁸ CAT Concluding Observations 2008, § 10

¹⁹ CAT Concluding Observations 2008, § 10

²⁰ CAT Concluding Observations 2008, § 10

²¹ CAT Concluding Observations 2008, § 10

²² CAT Concluding Observations 2008, § 10

²³ CAT Concluding Observations 2008, § 10

²⁴ CAT Concluding Observations 2008, § 10

²⁵ CAT Concluding Observations 2008, § 11

²⁶ CAT Concluding Observations 2008, § 11

investigations conducted and findings regarding such complaints, in line with the requirements of article 12 of CAT.²⁷

C. Domestic violence

26. Hong Kong should make sure that police officers receive proper training to deal with cases of domestic violence and ensure adequate allocation of resources for protection and provision of assistance to the victims.²⁸

27. Hong Kong should thoroughly investigate all allegations of domestic violence which, if substantiated, should be appropriately prosecuted and punished.²⁹

28. Hong Kong should strengthen its efforts to address domestic violence through legislative, policy and social measures.³⁰

29. Hong Kong should develop national public information and awareness-raising campaigns and stimulate broader public discussions in order to address attitudes and stereotypes that may lead to violence against women.³¹

30. Hong Kong should provide further information on this issue in its next periodic report, including on the progress obtained through the forthcoming Enhanced Central Domestic Violence Database.³²

5. Non-discrimination

A. Race

31. Hong Kong is urged to adopt the necessary legislation regarding racial discrimination, in order to ensure full compliance with article 26 of the ICCPR.³³

32. Hong Kong should include indirect discrimination with regard to language, immigration status and nationality among the prohibited grounds of discrimination in the Race Discrimination Ordinance. In this regard reference is made to the CERD Committee's General Recommendation No. 30 (Discrimination Against Non Citizens).³⁴

²⁷ CAT Concluding Observations 2008, § 12

²⁸ HRC Concluding Observations 2006, § 16

²⁹ CAT Concluding Observations 2008, § 13

³⁰ CAT Concluding Observations 2008, § 13

³¹ CAT Concluding Observations 2008, § 13

³² CAT Concluding Observations 2008, § 13

³³ HRC Concluding Observations 2006, § 19; CRC Concluding Observations 2005, § 33

³⁴ CERD Concluding Observations 2009, § 27

33. All Government functions and powers should be brought within the scope of the Race Discrimination Ordinance.³⁵

34. Hong Kong should adopt an equality plan with a view to ensuring the effective implementation of the law and that the Equal Opportunities Commission be strengthened.³⁶

35. Hong Kong is urged to extend the protection afforded by the proposed racial discrimination law to internal migrants from the Mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin.³⁷

36. Hong Kong should amend the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from Hong Kong to ensure full conformity and consistency with the new racial discrimination legislation.³⁸

B. Women

i. Violence against women

37. Hong Kong is urged to strengthen its efforts in combating all forms of violence against women, including domestic violence.³⁹

38. Hong Kong is encouraged to re-establish the Hong Kong rape crisis centres so as to ensure that victims of sexual violence receive specific attention and counselling in full anonymity.⁴⁰

39. Hong Kong should allocate sufficient resources to combat all forms of violence against women, including domestic violence.⁴¹

40. Hong Kong should provide details about budget allocation to combat all forms of violence against women in its next periodic report.⁴²

41. Hong Kong is urged to improve gender-sensitivity training for judicial and law enforcement officials and health and social workers on violence against women.⁴³

42. Hong Kong is urged to enhance women's access to justice, including by ensuring an effective response to complaints and carrying out more proactive investigations of complaints.⁴⁴

³⁵ CERD Concluding Observations 2009, § 28

³⁶ CERD Concluding Observations 2009, § 28

³⁷ ICESCR Concluding Observations 2005, § 91

³⁸ ICESCR Concluding Observations 2005, § 91

³⁹ CEDAW Concluding Observations 2006, § 36

⁴⁰ CEDAW Concluding Observations 2006, § 36

⁴¹ CEDAW Concluding Observations 2006, § 36

⁴² CEDAW Concluding Observations 2006, § 36

⁴³ CEDAW Concluding Observations 2006, § 36

43. Hong Kong should ensure that female foreign domestic workers are not discriminated against by their employers or subject to abuse and violence.⁴⁵

44. Hong Kong is requested to report back to the Committee on Economic, Social and Cultural Rights (ICESCR Committee) in its next periodic report on the result of the study by the Commission on Women on domestic violence.⁴⁶

ii. Gender equality

45. Hong Kong is urged to repeal all discriminatory provisions from the Small House Policy and ensure that indigenous women have the same rights and access to property as indigenous men.⁴⁷

46. Hong Kong should widely disseminate the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organisations, aware of the steps that have been taken to ensure the de jure and de facto equality of women, as well as the further steps that are required in that regard.⁴⁸

47. Hong Kong should provide, in its next periodic report, the results of the Equal Opportunities Commission Study on Gender-based Pay Inequalities and the measures to follow up the findings of the study.⁴⁹

C. Migrant workers

48. Hong Kong should take effective measures to ensure that domestic migrant workers are not discriminated against.⁵⁰

49. Hong Kong should repeal the "two-weeks rule", with a view of eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits.⁵¹

50. Hong Kong should repeal the live-in requirement.⁵²

⁴⁴ CEDAW Concluding Observations 2006, § 36

⁴⁵ CEDAW Concluding Observations 2006, § 42

⁴⁶ ICESCR Concluding Observations 2005, § 97

⁴⁷ CEDAW Concluding Observations 2006, § 38

⁴⁸ CEDAW Concluding Observations 2006, § 55

⁴⁹ ICESCR Concluding Observations 2005, § 93

⁵⁰ CERD Concluding Observations 2009, § 30

⁵¹ CERD Concluding Observations 2009, § 30; CEDAW Concluding Observations 2006, § 42; ICESCR Concluding Observations 2005, § 95

⁵² CERD Concluding Observations 2009, § 30

51. Hong Kong should implement a more flexible policy regarding foreign domestic workers.⁵³

52. Hong Kong should adopt a more flexible approach to domestic migrant workers in relation to their working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects. Reference is made to the CERD Committee's General Recommendation No. 30 (Discrimination Against Non Citizens).⁵⁴

53. Hong Kong is urged to make migrant workers aware of their rights so that they have access to justice and can claim their rights.⁵⁵

54. Hong Kong is called upon to strengthen its control of employment agencies.⁵⁶

55. Hong Kong is called upon to provide migrant workers with easily accessible avenues of redress against abuse by employers and permit them to stay in the country while seeking redress.⁵⁷

56. Hong Kong should enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund.⁵⁸

D. Non-Chinese speaking immigrants

57. Hong Kong should develop a policy on Chinese teaching for non-Chinese speaking students from immigrant background in consultation with teachers as well as the communities concerned.⁵⁹

58. Hong Kong should intensify its efforts to improve the quality of Chinese language education for immigrant children.⁶⁰

E. Asylum-seekers

59. Hong Kong should reconsider its position regarding the extension of the Convention relating to the Status of Refugees and its Protocol to its territorial jurisdiction.⁶¹

60. Hong Kong should strengthen its cooperation with UNHCR, in particular in the formulation of a clear and coherent asylum policy based on the principle of non-discrimination.⁶²

⁵³ CEDAW Concluding Observations 2006, § 42

⁵⁴ CERD Concluding Observations 2009, § 30

⁵⁵ CEDAW Concluding Observations 2006, § 42

⁵⁶ CEDAW Concluding Observations 2006, § 42

⁵⁷ CEDAW Concluding Observations 2006, § 42

⁵⁸ ICESCR Concluding Observations 2005, § 95

⁵⁹ CERD Concluding Observations 2009, § 31

⁶⁰ CERD Concluding Observations 2009, § 31

⁶¹ ICESCR Concluding Observations 2005, § 92

6. Other Civil Rights

61. Hong Kong should consider the establishment of an independent human rights institution compliant with the Paris Principles: the principles relating to the status of national institutions.⁶³

62. Hong Kong should ensure that the investigation of complaints against the police is carried out by an independent body, the decisions of which are binding on relevant authorities.⁶⁴

63. Hong Kong should amend its legislation regarding the offences of treason and sedition in the Crimes Ordinance to bring it into full conformity with articles 19, 21 and 22 of the ICCPR.⁶⁵

64. Hong Kong should take measures to ensure that the notification system between the Hong Kong and Mainland authorities is complied with and that cases of detention on the Mainland are notified promptly to the relatives in Hong Kong.⁶⁶

65. Hong Kong should ensure that its policies and practices regarding the right of abode fully take into consideration its obligations regarding the right of families and children to protection enshrined in article 23 and 24 of the ICCPR.⁶⁷

A. Privacy

66. Hong Kong should enact legislation regarding the capacity of law enforcement agencies to intercept communications and carry out covert surveillance, in full conformity with article 17 of the ICCPR.⁶⁸

67. Hong Kong should provide a mechanism of protection and redress to individuals claiming interference with their privacy and correspondence.⁶⁹

B. Freedom of Expression

68. Hong Kong should take vigorous measures to prevent and prosecute harassment of media personnel, and ensure that the media can operate independently and free from governmental intervention.⁷⁰

⁶² ICESCR Concluding Observations 2005, § 92

⁶³ HRC Concluding Observations 2006, § 8

⁶⁴ HRC Concluding Observations 2006, § 9

⁶⁵ HRC Concluding Observations 2006, § 14

⁶⁶ HRC Concluding Observations 2006, § 11

⁶⁷ HRC Concluding Observations 2006, § 15

⁶⁸ HRC Concluding Observations 2006, § 12

⁶⁹ HRC Concluding Observations 2006, § 12

⁷⁰ HRC Concluding Observations 2006, § 13

7. Rights of the Child

69. Hong Kong should take all appropriate measures to ensure that the present recommendations are fully implemented, *inter alia* by transmitting them to the members of the Legislative Council in Hong Kong, when applicable, for appropriate consideration and further action.⁷¹

70. The second periodic report and the written replies submitted by Hong Kong and the related recommendations (concluding observations) adopted by the Committee on the Rights of the Child (CRC Committee) should be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organisations, youth groups, professional groups and children, in order to generate debate and awareness of the CRC, its implementation and monitoring.⁷²

71. Hong Kong should review and withdraw its reservations to articles 32 and 37(c) of the CRC.⁷³

72. Hong Kong should improve coordination of its activities on the implementation of the CRC by developing and implementing a plan of action for Hong Kong.⁷⁴

73. Hong Kong should establish a national human rights institution with a clear mandate to monitor children's rights and implement the CRC in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) annexed to GA Res 48/134 of 20 December 1993.⁷⁵

74. In accordance with CRC Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions, such institutions should have a mandate to receive, investigate and address complaints from the public, including individual children, and be provided with adequate financial, human and material resources. In the case of Hong Kong, such an institution could be a specialised branch of the Ombudsman.⁷⁶

75. Hong Kong should target budgetary allocations towards income disparities, including through increased funding for social safety nets.⁷⁷

76. Hong Kong should establish an adequate monitoring system to ensure that budgetary allocations benefit the most vulnerable populations.⁷⁸

⁷¹ CRC Concluding Observations 2005, § 97

⁷² CRC Concluding Observations 2005, § 98

⁷³ CRC Concluding Observations 2005, § 9

⁷⁴ CRC Concluding Observations 2005, § 15

⁷⁵ CRC Concluding Observations 2005, § 17

⁷⁶ CRC Concluding Observations 2005, § 17

⁷⁷ CRC Concluding Observations 2005, § 21

77. Hong Kong should explore the possibility of developing central databanks for statistics on children, so as to ensure that statistical data are used for the development, implementation and monitoring of appropriate policies and programmes for children.⁷⁹

78. Hong Kong should further strengthen its efforts to disseminate the CRC in all languages, and also through the use of child-friendly materials and school curricula.⁸⁰

79. Hong Kong should expand its programmes to sensitise parents and children about the CRC.⁸¹

80. Hong Kong should increase its efforts to provide adequate and systematic training on children's rights for professional groups working with and for children.⁸²

81. Hong Kong should expedite its efforts to draft and adopt legislation prohibiting discrimination on the basis of race or sexual orientation.⁸³

82. Hong Kong should include in its next periodic report more detailed information on the implementation of article 3 of the CRC.⁸⁴

83. Hong Kong should include in its next periodic report more detailed information on how it ensures that the best interests of the child is a primary consideration in all actions concerning children.⁸⁵

84. In light of article 12 of the CRC, Hong Kong should strengthen its efforts to ensure that children have the right to express their views freely on all matters affecting them and to have those views given due weight in policy-making, administrative proceedings, schools and the home.⁸⁶

85. Hong Kong is encouraged to provide more detailed information on how it is strengthening its efforts to ensure that children have the right to express their views freely on all matters affecting them and to have those views given due weight in policy-making, administrative proceedings, schools and the home, in the next periodic report.⁸⁷

⁷⁸ CRC Concluding Observations 2005, § 21

⁷⁹ CRC Concluding Observations 2005, § 23

⁸⁰ CRC Concluding Observations 2005, § 25

⁸¹ CRC Concluding Observations 2005, § 25

⁸² CRC Concluding Observations 2005, § 25

⁸³ CRC Concluding Observations 2005, § 33

⁸⁴ CRC Concluding Observations 2005, § 36

⁸⁵ CRC Concluding Observations 2005, § 36

⁸⁶ CRC Concluding Observations 2005, § 39

⁸⁷ CRC Concluding Observations 2005, § 39

86. Hong Kong should systematically ensure that children's organisations participate actively in developing policies or programmes affecting them, such as the current education reform.⁸⁸

A. Violence against children

87. Hong Kong should explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions.⁸⁹

88. Hong Kong should expand public education and awareness-raising campaigns, with the involvement of children, on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment.⁹⁰

89. Hong Kong should ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (No. 33) as soon as possible.⁹¹

90. Once ratified, Hong Kong should ensure that the legal provisions of the 1993 Hague Convention are incorporated into domestic legislation.⁹²

91. Efforts to combat abuse, neglect, violence and maltreatment should be strengthened in all parts of the Government of Hong Kong, including through mandatory reporting requirement for staff working with children, such as doctors, teachers and social workers, and the establishment of specific helplines accessible and available to children.⁹³

92. Hong Kong should define in a more explicit manner the forms of sexual abuse and increase education and training for professionals working with and for children on identification, handling and prevention of all forms of abuse.⁹⁴

93. Hong Kong should strengthen coordination and follow-up of individual cases of abuse, neglect and maltreatment and ensure that all victims of any form of abuse, and their families, have access to social services and assistance.⁹⁵

94. Hong Kong should ensure that investigations into cases of abuse, neglect and maltreatment are handled without discrimination on the basis of whether the alleged perpetrators are within or outside the family.⁹⁶

⁸⁸ CRC Concluding Observations 2005, § 41

⁸⁹ CRC Concluding Observations 2005, § 48

⁹⁰ CRC Concluding Observations 2005, § 48

⁹¹ CRC Concluding Observations 2005, § 53

⁹² CRC Concluding Observations 2005, § 53

⁹³ CRC Concluding Observations 2005, § 56

⁹⁴ CRC Concluding Observations 2005, § 58

⁹⁵ CRC Concluding Observations 2005, § 58

⁹⁶ CRC Concluding Observations 2005, § 58

95. Hong Kong should further strengthen existing programmes aimed at addressing violence in schools, including with the participation of students themselves.⁹⁷

96. Hong Kong should use the outcome of the Regional Consultation for East Asia and the Pacific held in Thailand from 14 to 17 June 2005, as a tool for taking action, in partnership with civil society, to ensure that every child is protected from all forms of physical, sexual or mental violence, and for generating momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.⁹⁸

97. Hong Kong is urged to develop policies and programmes to adequately address the problems of malnutrition and obesity in children and to promote breastfeeding through strengthening the implementation of the International Code of Marketing of Breastmilk Substitutes and through the promotion of baby friendly hospitals in Hong Kong.⁹⁹

B. Refugee and migrant children

98. Hong Kong should extend all human rights guarantees in the CRC to all children in Hong Kong, including refugees, asylum-seekers and other undocumented migrants.¹⁰⁰

99. Hong Kong should ensure that no unaccompanied child, including those from the Democratic People's Republic of Korea, is returned to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child, for instance through disproportionate punishment for violating immigration laws, in accordance with the CRC Committee's General Comment No. 6 (2005) on unaccompanied minors.¹⁰¹

100. Hong Kong should amend legislation and regulations to ensure that all school-age children including refugees, asylum-seeking, children of migrants without the legal right to remain in Hong Kong or undocumented migrant children in Hong Kong are able to attend school without undue delay.¹⁰²

⁹⁷ CRC Concluding Observations 2005, § 78

⁹⁸ CRC Concluding Observations 2005, § 59

⁹⁹ CRC Concluding Observations 2005, § 63

¹⁰⁰ CRC Concluding Observations 2005, § 82

¹⁰¹ CRC Concluding Observations 2005, § 82

¹⁰² CRC Concluding Observations 2005, § 82; ICESCR Concluding Observations 2005, § 101

C. Child trafficking

101. In order to prevent and combat trafficking in children for sexual and other exploitative purposes, Hong Kong should further develop and enhance systems of early prevention of sexual exploitation and trafficking.¹⁰³

102. Hong Kong should further strengthen its efforts to identify and investigate trafficking cases, to improve understanding of the issues of trafficking and ensure that perpetrators are prosecuted.¹⁰⁴

103. Hong Kong should develop and adopt a comprehensive policy to prevent and combat sexual exploitation and trafficking in children, including the root causes and factors that place children at risk of such exploitation.¹⁰⁵

104. Hong Kong should provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children.¹⁰⁶

105. Hong Kong should ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).¹⁰⁷

D. Juvenile justice

106. Hong Kong should provide training on relevant international standards to those responsible for administering juvenile justice.¹⁰⁸

107. Hong Kong should raise the minimum age of criminal responsibility to an internationally acceptable level.¹⁰⁹

108. Hong Kong should abolish life sentences for persons who committed offences when they were under the age of 18.¹¹⁰

109. Hong Kong should ensure that all children under the age of 18 are consistently accorded special protection when coming into conflict with the law, and that their cases are heard in specialised juvenile courts by appropriately trained magistrates.¹¹¹

¹⁰³ CRC Concluding Observations 2005, § 88

¹⁰⁴ CRC Concluding Observations 2005, § 88

¹⁰⁵ CRC Concluding Observations 2005, § 88

¹⁰⁶ CRC Concluding Observations 2005, § 88

¹⁰⁷ CRC Concluding Observations 2005, § 88

¹⁰⁸ CRC Concluding Observations 2005, § 92

¹⁰⁹ CRC Concluding Observations 2005, § 94

¹¹⁰ CRC Concluding Observations 2005, § 94

¹¹¹ CRC Concluding Observations 2005, § 94

110. Hong Kong should ensure that deprivation of liberty is always used as a last resort, and strengthen and expand possibilities for alternative sentences, such as mediation, probation, community service or suspended sentences.¹¹²

II. Political Rights

111. All necessary measures should be taken whereby the Legislative Council is elected by universal and equal suffrage.¹¹³

112. Hong Kong should investigate allegations of harassment of legislators, ensure that they do not recur and take the necessary steps for full compliance with articles 19 and 25 of the ICCPR.¹¹⁴

113. It should be ensured that all interpretations of the Basic Law, including on electoral and public affairs issues, are in compliance with article 2, 25 and 26 of the ICCPR.¹¹⁵

114. Hong Kong should include in its next report a copy of the draft bill for article 23 of the Basic Law and to indicate any progress made in the enactment of the bill.¹¹⁶

115. Hong Kong is urged to take temporary special measures in accordance with article 4, paragraph 1, of CEDAW and General Recommendation 25 so as to increase women's representation in politics, including in the functional constituencies.¹¹⁷

III. Economic, Social and Cultural Rights

1. Economic Rights

116. Hong Kong should consider extending its social security system to cover unemployed workers through the payment of an unemployment benefit based on contributions from employers to employees.¹¹⁸

117. Hong Kong is urged to take the necessary measures as soon as possible to ensure that labour inspectors are no longer involved in joint operations which, by granting police and immigration authorities access to workplaces, allow them to arrest workers on the ground of their illegal residence situation.¹¹⁹

¹¹² CRC Concluding Observations 2005, § 94

¹¹³ HRC Concluding Observations 2006, § 18

¹¹⁴ HRC Concluding Observations 2006, § 17

¹¹⁵ HRC Concluding Observations 2006, § 18

¹¹⁶ ILO Experts Committee 2012, p.107

¹¹⁷ CEDAW Concluding Observations 2006, § 40

¹¹⁸ ICESCR Concluding Observations 2005, § 94

¹¹⁹ ILO Experts Committee 2011, pp.515-6

118. Hong Kong should ensure that the collaboration of labour inspection officers with immigration authorities is limited to legal proceedings against employers found to be in violation of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, and to inform the ILO of the action taken to this end and the results achieved.¹²⁰

119. Hong Kong should provide its observations with regard to the comments of the International Trade Union Confederation (ITUC) dated 4 August 2011 concerning issues already raised by the ILO Committee of Experts and the additional comments communicated by the ITUC and the Hong Kong Confederation of Trade Unions (HKCTU) dated 31 August 2011, referring notably to the deprivation of effective protection against anti-union discrimination in Hong Kong evidenced by the low number of complaints filed by the Labour Department and the even lower number of successful cases against employers – not more than two since 1997.¹²¹

120. Hong Kong should draft an amendment bill that would empower the Labour Tribunal to make an order of reinstatement/re-engagement in cases of unreasonable and unlawful dismissal without the need to secure the employer's consent, which has been under examination since 1999 and adopt such bill so as to give legislative expression to the principle of adequate protection against acts of anti-union discrimination and requests the Government to indicate any process made in this respect.¹²²

121. Hong Kong should continue to promote collective bargaining and provide information on measures adopted or contemplated for the promotion of new bipartite collective agreements through the full development and utilisation of machinery for voluntary negotiation between employers or employer's organisations and workers' organisations and to indicate any further sectors covered by collective agreements, as well as the level of coverage (number of collective agreements and workers covered).¹²³

122. Noting that it follows from Hong Kong's report that in the public sector there are consultations but not collective bargaining, the Committee recalls that, according to Article 4 of ROCBC, civil servants not engaged in the administration of the State should enjoy not only the right to be consulted on their conditions of employment but also the right to bargain collectively and requests the Government to ensure this right.¹²⁴

¹²⁰ ILO Experts Committee 2011, pp.515-6

¹²¹ ILO Experts Committee 2012, p.107

¹²² ILO Experts Committee 2012, pp.107-8

¹²³ ILO Experts Committee 2012, p.108

¹²⁴ ILO Experts Committee 2012, p.108

123. Hong Kong should indicate the different categories and functions of the civil servants so as to identify which of them are engaged in the administration of the State and which are not.¹²⁵

124. Hong Kong should indicate any agreement concluded in the public sector.¹²⁶

125. Hong Kong should provide up-to-date information on the activities of both the CIILS (Committee on the Implementation of International Labour Standards) and the LAB (Labour Advisory Body) on the matters concerning international labour standards as well as examples on the manner in which Article 5 is being implemented.¹²⁷

2. Social Rights

126. Hong Kong is urged to review the eligibility criteria for Comprehensive Social Security Assistance so as to ensure that all those in need, including low-income persons and families, older persons and new migrants are adequately covered by the scheme to enable them to enjoy a decent standard of living.¹²⁸

127. Hong Kong is requested to provide, in its next periodic report, detailed information on the problem of trafficking and commercial sexual exploitation of persons in Hong Kong and on measures taken to effectively address these problems.¹²⁹

128. Hong Kong is urged to strengthen its efforts to combat poverty and social exclusion, in particular with regard to disadvantaged and marginalised groups and older persons.¹³⁰

129. Hong Kong should adopt an official poverty line, which would enable Hong Kong to define the extent of poverty and to monitor and evaluate progress in alleviating poverty.¹³¹

130. Hong Kong should provide, in its next periodic report, disaggregated and comparative annually collected data on the number of people living in poverty, on the progress made in reducing the incidence of poverty, and on the impact, if any, that the newly-established Commission on Poverty has had on the issue of poverty in Hong Kong.¹³²

¹²⁵ ILO Experts Committee 2012, p.108

¹²⁶ ILO Experts Committee 2012, p.108

¹²⁷ ILO Experts Committee 2012, p.586

¹²⁸ ICESCR Concluding Observations 2005, § 96

¹²⁹ ICESCR Concluding Observations 2005, § 97

¹³⁰ ICESCR Concluding Observations 2005, § 98

¹³¹ ICESCR Concluding Observations 2005, § 98

¹³² ICESCR Concluding Observations 2005, § 98

131. Hong Kong is urged to continue its efforts to improve its health services, *inter alia*, through the allocation of adequate and increased resources.¹³³

132. Hong Kong should consider revising the current list of subsidised drugs to meet the needs of the chronically and mentally ill.¹³⁴

133. Hong Kong is encouraged to submit in its next periodic report to the ICESCR Committee annually collected comparative data, disaggregated by sex, age and urban/rural residence, paying particular attention to disadvantaged and marginalised group.¹³⁵

134. Hong Kong should develop a comprehensive sexual and reproductive health programme, including a public awareness-raising campaign about safe contraceptive methods.¹³⁶

135. Hong Kong is called upon to introduce education on sexual and reproductive health in the school curriculum.¹³⁷

136. Hong Kong is encouraged to ensure that human rights education is provided in schools at all levels and to raise awareness of human rights, in particular economic, social and cultural rights, among State officials and the judiciary.¹³⁸

3. Child Health

137. Hong Kong should pay close attention to adolescent health and the provision of appropriate adolescent health services, taking into account the CRC Committee's General Comment No. 4 (2003) on adolescent health and development in the context of the CRC.¹³⁹

138. Hong Kong should strengthen its efforts to promote adolescent health, including by providing sexual and reproductive health education in schools, and to introduce school health services, including youth-sensitive and confidential counselling and care.¹⁴⁰

139. Hong Kong should expand preventive and therapeutic mental health services for adolescents and develop programmes to decrease tobacco smoking, alcohol consumption and drug abuse among adolescents, in particular through the

¹³³ ICESCR Concluding Observations 2005, § 99

¹³⁴ ICESCR Concluding Observations 2005, § 99

¹³⁵ ICESCR Concluding Observations 2005, § 99

¹³⁶ ICESCR Concluding Observations 2005, § 100

¹³⁷ ICESCR Concluding Observations 2005, § 100

¹³⁸ ICESCR Concluding Observations 2005, § 102

¹³⁹ CRC Concluding Observations 2005, § 65

¹⁴⁰ CRC Concluding Observations 2005, § 65

development of campaigns specifically designed for adolescents on health-behavioural choices and life skills.¹⁴¹

140. Hong Kong should continue to strengthen its efforts to prevent suicide among the youth.¹⁴²

141. In the light of the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, Hong Kong should strengthen its efforts to prevent the spread of HIV/AIDS.¹⁴³

142. Hong Kong should continue to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups.¹⁴⁴

143. Hong Kong should establish a poverty line and develop appropriate policies to combat child poverty that address widening income disparities while expanding access to social welfare benefits to all vulnerable populations, including new immigrants.¹⁴⁵

4. Education

144. Hong Kong should develop programmes aimed at addressing the dropout rates in secondary education.¹⁴⁶

145. Hong Kong should enhance the quality of education in a manner that seeks to reduce the competitiveness of the education system and promotes active learning capacities and the right of a child to play and leisure.¹⁴⁷

¹⁴¹ CRC Concluding Observations 2005, § 67

¹⁴² CRC Concluding Observations 2005, § 67

¹⁴³ CRC Concluding Observations 2005, § 70

¹⁴⁴ CRC Concluding Observations 2005, § 70

¹⁴⁵ CRC Concluding Observations 2005, § 74

¹⁴⁶ CRC Concluding Observations 2005, § 78

¹⁴⁷ CRC Concluding Observations 2005, § 78

Abbreviations

CAT	<i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment</i> [1984] 1465 U.N.T.S. 85; GA res. 39/46, Annex, 39 U.N. GAOR Supp. (No. 51) at 197, UN Doc. A/39/51 (1984)
CAT Concluding Observations 2008	<i>Concluding observations of the Committee against Torture - Hong Kong Special Administrative Region</i> , UN CAT, 41 st sess, 844 th and 846 th mtgs, UN Doc CAT/C/HKG/CO/4 (2008)
CEDAW	<i>Covenant for the Elimination of Discrimination Against Women</i> [1979] 1249 U.N.T.S. 13; G.A. res. 54/4, Annex, 54 U.N. GAOR Supp. (No. 49) at 5, UN Doc. A/54/49 (Vol. I)
CEDAW Concluding Observations 2006	<i>Concluding observations of the Committee on the Elimination of Discrimination against Women</i> , CEDAW, 36 th sess, 743 rd and 744 th mtgs, UN Doc, CEDAW/C/CHN/CO/6
CERD	<i>Convention on the Elimination of Racial Discrimination</i> [1966] 660 U.N.T.S. 195; G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966)
CERD Concluding Observations 2009	<i>Concluding observations of the Committee on the Elimination of all Forms of Racial Discrimination – People’s Republic of China (including Hong Kong and Macao SAR)</i> , CERD, 75 th sess, 1966 th mtg, UN Doc CERD/C/CHN/CO/10-13 (2009)
CRC	<i>Convention on the Rights of the Child</i> [1989] 1577 U.N.T.S. 3; GA res. 44/25, annex, 44 UN GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989)
CRC Concluding Observations 2005	<i>Concluding observations of the Committee on the Rights of the Child – People’s Republic of China (including Hong Kong and Macau Special Administrative Regions)</i> , CRC, 40 th sess, 1080 th mtg, UN Doc CRC/C/CHN/CO/2 (2005)
FAPROC	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Governing Body of the International Labour Office, 31 st sess; 68 U.N.T.S. 17 entry into force 4 July 1950 in accordance with article 15
HRC Concluding Observations 2006	<i>Concluding Observations of the Human Rights Committee – Hong Kong Special Administrative Region</i> , ICCPR, 86 th sess, 2364 th and 2365 th mtgs, UN Doc CCPR/C/HKG/CO/2 (2006)
LIC	Labour Inspection Convention, 1947 (No. 81), Governing Body of the International Labour Office, 30 th sess; adopted on 11 July 1947
ICCPR	<i>International Covenant on Civil and Political Rights</i> [1966] 999 UNTS 171; G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966)

ICESCR	<i>International Covenant on Economic, Social and Cultural Rights</i> [1966] 993 UNTS 3; GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966)
ICESCR Concluding Observations 2005	<i>Concluding observations of the Committee on Economic, Social and Cultural Right – People's Republic of China (including Hong Kong and Macau Special Administrative Regions)</i> , ICESCR, 34 th sess, 27 th mtg, UN Doc E/C.12/1/Add.107 (2005)
ILO Experts Committee 2011	<i>2011 Report of the Committee of Experts on the Application of Conventions and Recommendation (articles 19, 22 and 35 of the Constitution)</i> , International Labour Conference, 100th Session, Report III (Part 1A) General report and observations concerning particular countries, 1st edition 2011 (ILC.100/III/1A)
ILO Experts Committee 2012	<i>2012 Report of the Committee of Experts on the Application of Conventions and Recommendation (articles 19, 22 and 35 of the Constitution)</i> , International Labour Conference, 101th Session, Report III (Part 1A) General report and observations concerning particular countries, 1st edition 2012 (ILC.101/III/1A)
ROCBC	<i>Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</i> , Governing body of the International Labour Office, 32 nd sess; 96 U.N.T.S. 257 entry into force 18 July 1951 in accordance with article 8
TCC	<i>Tripartite Consultation (International Labour Standards) Convention 1976 (No. 144)</i> , Governing Body of the International Labour Office, 61 st sess; adopted on on 2 June 1976