

**Hong Kong Bar Association's Statement on the
Concluding Observations of the
United Nations Committee Against Torture (21 November 2008)**

1. The Hong Kong Bar Association ("HKBA") notes the Concluding Observations of the United Nations Committee Against Torture ("CAT Committee") adopted on 21 November 2008 in respect of the report of the HKSAR, forming part of the fourth periodic report of the People's Republic of China.
2. The HKBA notes that the CAT Committee has highlighted in the Concluding Observations the shortcomings of the Crimes (Torture) Ordinance (Cap 427), the process of investigating and reviewing complaints against the police, and the police force's guidelines (July 2008) for the handling of searches of suspects in police stations and detention facilities, as well as concerns over the processing of asylum claims and treatment of asylum claimants. The CAT Committee has asked the HKSAR Government to report in a year's time its response to these aspects of the Concluding Observations.
3. The HKBA urges the HKSAR Government to seriously consider the Concluding Observations. In particular, the Commissioner of Police's determination sanctioning the routine search of a person in police custody every time he or she enters a police detention facility must be reviewed with a view to its abolition. The HKBA reiterates that the discretionary power vested in duty officers at the front-line processing arrested persons or persons in police custody, should be exercised by reference to objective and identifiable criteria in guidelines on a case by case basis.
4. Further, the HKSAR Government should seriously consider how it would ensure that no acts of cruel, inhuman or degrading treatment or punishment would be committed in the sanctioning and carrying out of searches of persons in law enforcement custody; that law enforcement officers in Hong Kong are properly made aware of the prohibition under the Convention Against Torture of such acts; and that complaints of such acts committed by law enforcement officers in Hong Kong are promptly and properly investigated by an independent and impartial authority.
5. Lastly, serious thoughts should be given to putting in place a monitoring or review mechanism relating to searches requiring the removal of underwear.

Dated 28th November 2008.

Hong Kong Bar Association