

60th Anniversary of Universal Declaration of Human Rights

Joint Statement Law Society and Bar Association

In the aftermath of the Second World War, drafters of the Declaration saw a world fraught with fear, injustice, and disharmony; a world where people were discriminated against, persecuted and deprived on a daily basis; a world in which men women and children had been destroyed simply because of their ethnicity or beliefs; a world in pain. The Declaration was adopted as a global statement embodying the quintessence of a common humanity bound together by inherent and inalienable rights, and recognizing within those rights the fundamental concept of human dignity.

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in 1948 as the first universal statement on the basic principles of inalienable human rights in the civil, political, social, economic, and cultural realms.

From this foundational document, a number of human rights covenants have sprung, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both of which are incorporated into the laws of the HKSAR through Article 39 of the Basic Law. There is, thus, a special link with the basic rights of humankind set down 60 years ago, with those we enjoy today.

As lawyers, we have a special role as guardians of the rule of law and of basic rights and freedoms of our fellow men and women. This is not theoretical or aspirational, but practical and day-to-day. As such, it is vital to remember that although the Declaration is widely accepted as a principal document encompassing the scope and standards of a human rights regime, the *universal nature* of the Declaration has sometimes been neglected. In Hong Kong, human rights have often either been discounted as nebulous ideals, treated like commodities subject to a "pick and choose" mode of implementation, or shrugged off by some as unnecessary in an otherwise stable and economically robust society. On the contrary, the rights set out in the Declaration and in the multiple conventions adopted and applied throughout the world since, are a vital underpinning of the day to day laws

regulating the interplay between the government and the people, between the powerful and the weak, between one human being and another.

The 60th anniversary of the Universal Declaration of Human Rights is an appropriate occasion for us to reflect and gauge our role as lawyers – as custodians of universal human rights standards. It has been said that "the greatness of nations is shown by their strict regard for human rights, rigid enforcement of the law without bias, and just administration of the affairs of life." The legal profession plays a vital role not only in the administration of just laws but also in challenging those which are unjust and fall short of the ideals and goals enshrined in the Declaration and in our Basic Law.

As lawyers in Hong Kong, we cannot permit ourselves to be divorced from or remain ignorant of international human rights developments. We have a duty to familiarize ourselves with the growing international jurisprudence of human rights and contribute to it.

We acknowledge that it is not merely a professional responsibility but a social and ethical duty for us to protect the physical, moral and intellectual integrity of the individual. This duty asks that we constantly review our legal regime to ensure that law is never used to support an unjust system or to excuse inaction in the face of abuse of power, and to ensure that the ambit and application of law never involves any derogation from the fundamental rights of the individual, bearing in mind that an injustice committed against any one person is a threat to the very rule of law.

In the context of human rights, there is always a need for ceaseless reflection, evaluation of action, and progress. Only by so doing can the noble words of the Declaration be translated into legal reality for the benefit of the people we serve, and as witness to the spirit of the profession to which we pledge our allegiance.

《世界人權宣言》六十週年

香港律師會與香港大律師公會聯合聲明

第二次世界大戰結束後，世界各地百廢待興；前景不明朗，社會既不公平亦缺乏和諧；人民不斷受歧視、逼害，終日不得溫飽；數以萬計的人因為自己的種族或信仰在戰爭中慘被殺害；全球各地可謂哀鴻遍野。《世界人權宣言》便是在此背景下起草，目的是以此作為人類的共同典範，並強調人與生俱來不可被剝奪的權利，以重申人類共有的尊嚴。

《世界人權宣言》由聯合國大會於一九四八年通過，成為維護人類在公民、政治、社會、經濟及文化各範疇的天賦權利的首份文獻。

其後，由《宣言》這份重要文獻衍生一些人權公約，包括《經濟、社會及文化權利國際公約》和《公民權利和政治權利國際公約》，這兩條公約亦透過香港特別行政區《基本法》第三十九條成為香港法律的一部份。所以，六十年前《宣言》所立下人類的基本權利，與我們今日所享有的權利有密切的關係。

作為律師，捍衛法治，確保我們身邊的人的權利不會被剝奪，實責無旁貸。這並非紙上空談，亦非一些可望而實不至的理想，而是我們經常要面對的實際問題。於此，我們必須緊記，雖然《宣言》普遍被視為一份勾劃出保障人權的體制所應涵蓋的範圍和標準的重要文件，但《宣言》的普世性卻往往被人忽略。在香港，人權往往被輕視為一些空泛的理想、被視作一些可隨意選擇落實的工具，或因為香港社會穩定、經濟蓬勃，被視為可有可無，但事實上《宣言》及其後在世界各地所採納及落實的眾多人權公約所強調的權利，是規管政府與人民的關係、當權者與無權無勢的人的關係，與人類彼此的關係的重要基石。

正值《宣言》通過六十週年，正好讓我們反思及重訂我們身為律師所應當扮演的角色——即作為普世人權價值的守護者。有說「國之大者，視乎其嚴守人權標準的程度、能否不偏不倚地執行法律，以及公正地管治國民生活的每一面」。法律從業員的責任，是確保法例可獲公正執行，並挑戰那些不公正，且不符合《宣言》及香港的《基本法》中對保障人權所展現的目標的法例。

身為香港律師，我們不應容許自己與國際人權的發展脫節，或對有關發展全不瞭解，所以我們必須使自己熟識正在發展中的國際人權法理學，並作出貢獻。

我們明白，保護市民的身心尊嚴，不單是律師的專業責任，更是我們所當盡的道德義務。正因如此，我們必須不斷審視我們的法律制度，確保法律不會淪為支持不義制度的工具，或面對濫權行為時無動於中的藉口，並且須確保法例的內容及執行方式，不會導致個人權利的損害，因為對任何一個人的權利的侵犯，均會對法治構成威脅。

對於宣揚人權價值及保障人權，我們應持續地作出反思、檢討，以求進步，致令《宣言》內的崇高目標可以被轉化為完善的法律制度，以惠及我們所服務的市民大眾，並持守我們承諾的法律專業價值。