



**International covenant
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**Consideration of reports submitted by States parties under article 40 of the
Covenant
Concluding Observations of the Human Rights Committee
Hong Kong Special Administrative Region (HKSAR)**

1. The Human Rights Committee considered the second periodic report of the Hong Kong Special Administrative Region (HKSAR) (CCPR/C/HKG/2005/2) at its 2350th and 2351st meetings (CCPR/C/SR.2350-2351), on 20 and 21 March 2006. This report is the second submitted by the People's Republic of China after the return of the HKSAR to Chinese sovereignty on 1 July 1997. The Committee adopted the following concluding observations at its 2364th and 2365th meetings (CCPR/C/SR.2364), on 30 March 2006.

A. Introduction

2. The Committee welcomes the submission of HKSAR's second periodic report, which was elaborated in conformity with the reporting guidelines, and the constructive dialogue with the delegation who provided comprehensive replies to the written and oral questions formulated by the Committee. The Committee welcomes also the wide publicity given to the report, the list of issues and its previous concluding observations. The Committee appreciates the process of consultations undertaken by the HKSAR for the preparation of the report, which included consultations with civil society.

B. Positive aspects

3. The Committee welcomes initiatives taken to respond to the needs of minority communities, such as the establishment of the Ethnic Minorities Forum and the provision of funding for community level projects. It also welcomes the public education efforts carried out to foster a culture of mutual understanding and respect among people of different races.
4. The Committee notes with appreciation the initiatives undertaken to promote non-discrimination on the grounds of sexual orientation.
5. The Committee welcomes the putting in place, following a judgement of the Court of Final Appeal, of administrative procedures for the assessment of claims of torture made by persons facing deportation.
6. The Committee welcomes the withdrawal of the National Security (Legislative Provisions) Bill introduced in 2003 under article 23 of the Basic Law, in view of the serious concerns which the Bill raised regarding the protection of rights under the Covenant.
7. The Committee welcomes the measures taken in order to tackle domestic violence, including preventive measures, crisis intervention, support services for victims, treatment of offenders and the ongoing revision of the legislative framework.

C. Principal subjects of concern and recommendations

8. The Committee regrets that the HKSAR has not implemented a number of recommendations contained in its previous concluding observations (CCPR/C/79/Add.117). It remains concerned regarding the limited mandate and powers of the Ombudsman, including its lack of oversight function of the police, and the Equal Opportunities Commission (article 2).

The HKSAR should consider the establishment of an independent human rights institution compliant with the Paris Principles.

9. The Committee remains concerned that investigations of police misconduct are still carried out by the police themselves through the Complaints Against Police Office (CAPO), and that the Independent Police Complaints Council (IPCC) does not have the power to ensure proper and effective investigation of complaints or for the effective implementation of its recommendations (article 2).

The HKSAR 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.

10. The Committee remains concerned at the absence of adequate legal protection of individuals against deportation to locations where they might be subjected to grave human rights violations, such as those contrary to articles 6 and 7 of the Covenant.

The HKSAR should establish an appropriate mechanism to assess the risk faced by individuals expressing fears of being victims of grave human rights violations in the locations to which they may be returned.

11. The Committee is concerned at reports that Hong Kong residents detained on the Mainland encounter difficulties in having contact with their families in Hong Kong (article 10).

The HKSAR should take measures to ensure that the notification system between the Regional and Mainland authorities is complied with and that cases of detention are notified promptly to the relatives in the Region.

12. The Committee remains concerned that no clear legislative framework exists regarding the capacity of law enforcement agencies to intercept communications and carry out covert surveillance (article 17).

The HKSAR should enact legislation on the matter which is in full conformity with article 17 of the Covenant and provide a mechanism of protection and redress to individuals claiming interference with their privacy or correspondence.

13. The Committee is concerned about reports of intimidation and harassment against journalists and media personnel, frequently in connection with debates on political issues (article 19).

The HKSAR should take vigorous measures to prevent and prosecute harassment of media personnel, and ensure that the media can operate independently and free from government intervention.

14. The Committee is concerned that the current definition of the offences of treason and sedition in the Crimes Ordinance is too broad (articles 19, 21, 22).

The HKSAR should amend its legislation regarding such offences to bring it into full conformity with the Covenant.

15. The Committee notes with concern that, as a result of the right of abode policies, many families remain separated or their members feel necessitated to stay in HKSAR illegally. In some cases, family members who have been repatriated to the Mainland are not even provided with two-way permits to visit their families in HKSAR (articles 23 and 24).

The HKSAR 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 articles 23 and 24 of the Covenant.

16. Notwithstanding the measures adopted by the HKSAR to tackle the problem of domestic violence, concerns persist, including regarding the handling of cases by the police and the funding of social services to assist the victims (articles 3, 23, 24).

The HKSAR 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.

17. The Committee is concerned about allegations of threats and acts of vandalism against some legislators during the run up to elections in 2004 and it regrets that the HKSAR did not provide it with information on the difficulties caused to legislators of the Democratic Party (articles 19 and 25)

The HKSAR 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.

18. The Committee recalls that in the concluding observations regarding the part of the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland relating to Hong Kong, adopted on 1 November 1995, it referred to the reservation made by the United Kingdom according to which article 25 b) did not require the establishment of an elected legislature in Hong Kong. The Committee took the view that once an elected Legislative Council is established, its election must conform to article 25 of the Covenant. As stated at that time, and reiterated in its concluding observations on the initial report of the HKSAR, adopted on 4 November 1999, the Committee still considers that the electoral system in Hong Kong does not meet the requirements of article 25, as well as articles 2, paragraph 1 and 26 of the Covenant. Furthermore, the Committee is concerned that the implementation of the procedure for interpretation of the Basic Law, such as on electoral and public affairs issues, does not include adequate arrangements to ensure that such interpretations are in compliance with the Covenant (articles 2, 25, 26).

All necessary measures should be taken whereby the Legislative Council is elected by universal and equal suffrage. It should be ensured that all interpretations of the Basic Law, including on electoral and public affairs issues, are in compliance with the Covenant.

19. While welcoming the measures taken by the HKSAR to combat racial discrimination, the Committee remains concerned at the absence of relevant specific legislation (article 26).

The Committee urges the HKSAR to adopt the necessary legislation in order to ensure full compliance with article 26 of the Covenant.

20. The Committee sets 2010 as the date for the submission of the HKSAR's third periodic report. It requests that the present concluding observations be published and widely disseminated to the general public, as well as to the judicial, legislative and administrative authorities.

21. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the HKSAR should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 9, 13, 15, 18. The Committee requests the

HKSAR to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.
