



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

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**List of issues to be taken up in connection with the consideration of the
second periodic report of Hong Kong Special Administrative Region of the People's Republic
of China (CCPR/C/HKG/Q/2)**

**Constitutional and legal framework within which the Covenant
is implemented and conformity of laws with it (article 2)**

1. Please provide information on the re-interpretation of the Basic Law provisions (Annex I and II) issued by the Standing Committee of the National People's Congress (NPCSC) on 6 April 2004 and 26 April 2004, particularly in terms of its impact for the authority of the HKSAR courts and the principle of universal suffrage in the elections of the Chief Executive and the Legislative Council in 2007 and 2008. How is this interpretation consistent with the NPCSC obligation to respect civil and political rights in the HKSAR?
2. In view of the HKSAR government comments in paras. 76-78 of the Report, please explain whether HKSAR has taken, or envisages to take, any steps to establish a National Human Rights Institution in conformity with the Paris Principles, as well as to extend the mandate of the Ombudsman over the police and the Independent Commission Against Corruption.
3. Please elaborate on the 2002 review of the Equal Opportunities Commission (EOC) (HKSAR report, para. 79) and provide information on the HKSAR's refusal to appoint an independent panel to investigate the alleged EOC incident of July 2003. What steps do the HKSAR authorities intend to take toward setting up a more transparent mechanism for the appointment of the EOC's chairpersons and members?
4. Please provide information on the status of the National Security Bill, introduced in February 2003 under article 23 of the Basic Law and withdrawn on 5 September 2003. Does the HKSAR Government plan to reintroduce any elements of this Bill? If so, when and what measures have been taken, or are envisaged, to ensure compatibility of these elements with the Covenant.

Principles of gender equality and non-discrimination; Freedom from torture and cruel, inhuman or degrading treatment; Right to be free of arbitrary arrest and detention; Security of the person and protection from arbitrary arrest; Treatment of prisoners and other detainees (arts. 3, 7, 9, 10, and 26)

5. What measures has the HKSAR Government taken to combat violence against women including domestic and sexual violence?

6. Please provide further information on the notification system set up to assist HKSAR residents detained in mainland China (HKSAR report, para. 198).

Prohibition of slavery or forced or compulsory labour (article 8)

7. Please provide information on legal proceedings, if any, instituted against traffickers in persons, on the penalties imposed, and on the protection of and redress granted to victims.

Right to privacy; Right to freedom of thought, conscience and religion; Right to freedom of opinion and expression, peaceful assembly and association (arts. 17, 18, 19, 21, and 22)

8. Please provide information about the extent to which the Telecommunications Ordinance, the Post Office Ordinance and the Interception of Communications Ordinance are in compliance with articles 17 and 19 of the Covenant, as well as details on the announced review of regulations under the Interception of Communications Ordinance (report, para. 248).

9. Please comment on reports of allegedly rising media self-censorship in the wake of the so-called “patriotism campaign” of April 2004, criticism from the mainland officials, and threats from the triads against leading media figures which were reportedly not acted upon by the HKSAR authorities. Please provide information on HKSAR’s policies to ensure compliance with article 19 of the Covenant.

10. Please provide information on the reported raid on the premises of seven news agencies and their journalists’ homes by the Independent Commission Against Corruption (ICAC) on 24 July 2004 which the Court of First Instance judgment found to be “wrong in fact and in law” in August 2004. What is the effect on the freedom of the press of the Court of Appeal’s ruling, which dismissed the ICAC’s appeal on technical grounds in October 2004, but concluded that ICAC had acted lawfully? Please elaborate on the monitoring role of the Independent Commission against Corruption Complaints Committee (report, para. 51).

11. According to information before the Committee, there are reports of Hong Kong-based academics being detained by the mainland security agents for political reasons, while the SAR government has reportedly not intervened. In this respect, please elaborate on the steps taken by the HKSAR authorities to protect academic freedoms, enshrined in article 34 of the Basic Law and provided for by article 19 of the Covenant.

12. Please provide information on the extent to which the provisions concerning treason and sedition under the Crimes Ordinance is in compliance with article 19 of the Covenant. Please indicate what measures have been taken to implement the Committee’s previous concluding observations on this issue.

13. Please provide information on whether the HKSAR authorities intend to amend the Societies Ordinance to replace the current compulsory registration system, which makes the establishment of associations conditional on government approval, with a system of notification. Please provide statistical information on the number of registration requests refused on the grounds of national security, public safety, public order, or the protection of the rights and freedom of others.

14. Please comment on information before the Committee that police authorities have used the “notice of no objection” procedure under the Public Order Ordinance to make it more difficult for groups to obtain permits for marches, demonstrations, and rallies and to arrest journalists and students in peaceful protests. Please elaborate on the conditions and/or penalties imposed on such protestors. What types of application for public demonstrations have been rejected for reasons of “national security,” “public order,” or their subject-matter?

15. According to information before the Committee, restrictions have been placed on Falun Gong practitioners in HKSAR (including limited use of public facilities, denial of entry into HKSAR to followers based outside HKSAR, and public warnings by HKSAR officials). Please comment and provide information on the compatibility of these restrictions with articles 18, 19 and 21 of the Covenant.

16. Please explain how the absence of an institutional framework for union recognition and collective bargaining is compatible with article 22 of the Covenant.

**Expulsion of aliens; right to enter one’s own country; protection of the family and children
(arts. 12, 13, 23, 24)**

17. Please provide additional information on the powers of the Chief Executive to issue a removal order or a deportation order according to the relevant provisions of the Immigrations Ordinance. For the purposes of a removal order (Section 19.1 (a)), who qualifies as an “undesirable immigrant”? What criteria are used by the Chief Executive to determine whether the deportation of an immigrant is “conducive to the public good” (Section 20.1)?

18. Please elaborate on the status of refugees or asylum-seekers on the HKSAR territory since the Government’s elimination of the temporary protection policy and provide information on the requests received and granted by the Director of Immigration. Please explain how the HKSAR authorities have given effect to the Court of Final Appeal’s *Prabakar v. Secretary for Security* judgment (8 June 2004). What provisions exist with respect to employment of those who are granted refugee status (or are awaiting UNHCR’s assessment) and school attendance of their children?

19. According to information before the Committee, the grounds for claiming the right of abode have been considerably narrowed. In January 2002 a Court of Final Appeal judgement found that only about 400 out of 5000 claimants had the right of abode. In this respect, please provide information on the status, legal protections, and numbers of claimants of the right of abode and the right to family reunion.

Right to take part in the conduct of public affairs; right to vote (article 25)

20. There have been a number of allegations of threats and vandalism attacks against democratic legislators and allegations of a poor response on the part of the police to investigate and prosecute the offenders. Please provide information on the actions taken, if any, to prevent, investigate, and

prosecute threats and vandalism reportedly perpetrated against legislators of the Democratic Party in the lead-up to the September 2004 elections.

Prohibition of discrimination and rights of persons belonging to minorities (arts. 26 and 27)

21. Please elaborate on the measures taken, or planned, to protect foreign domestic workers, predominantly women, from direct and indirect discrimination in their workplaces and government offices and to reduce the incidence of contract violations, underpayment, and criminal abuse against them. Please provide information on support mechanisms, including legal remedies, as well as statistical information on investigations and prosecutions relating to under- or non-payment of wages and allegations of abuse or maltreatment, and their outcome (judgements and compensation).