



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues to be taken up in connection with the consideration of the third periodic report of Hong Kong, China, adopted by the Committee at its 106th session (15 October–2 November 2012)

Constitutional and legal framework within which the Covenant is implemented (arts. 2, 25 and 26)

1. In view of the comments provided by the Government of Hong Kong, China, in paragraphs 49–52 of its periodic report, please comment on the “Report on Review of Jurisdiction of the Office of the Ombudsman”, which states that, although various public bodies have been charged with different functions concerning the protection and promotion of citizen’s rights, “each of these organizations is charged with protecting and/or promoting certain aspects of human rights, but none is empowered to discharge the full scope of functions envisaged for a HRC [Human Rights Commission]”,* i.e. a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Please provide information as to any steps taken to ensure the independence and effectiveness of the Equal Opportunities Commission, particularly given the dual role of its chairperson, as both the head of the Commission and as Convener of Executive Council.
2. Please provide examples of cases in which the provisions of the Hong Kong Bill of Rights Ordinance that had incorporated the Covenant were applied by the courts. In particular, please provide examples of cases in which the court referred to the work of the Committee in interpreting the Bill of Rights and cases, if any, in which the Bill of Rights was applied to supersede conflicting laws. Please also explain the status of the Bill of Rights in relation to the Basic Law.
3. With reference to the information provided in paragraphs 7–43 of the report, please indicate what further steps have been taken to ensure that the next Chief Executive and Legislative Council elections take place by universal suffrage in compliance with the Covenant. Please describe the conditions for nomination, e.g., age limits, and any other qualifications or restrictions.

* Office of the Ombudsman, “Report on Review of Jurisdiction: Part 2”, LC Paper No. CB(2)1384/08/-09(08), paras. 2.10–2.12.

Non-discrimination and equality (arts. 2, 3 and 26)

4. With reference to the information provided in paragraphs 354–362 of the periodic report of Hong Kong, China, please provide information on the practical implementation of the Race Discrimination Ordinance, including examples of case law. What measures have been taken to ensure that all Government functions and powers are brought within the scope of the Race Discrimination Ordinance? Please also provide updated information on the progress made in amending the Sex Discrimination Ordinance and Disability Discrimination Ordinance, as proposed by the Equal Opportunities Commission in its 1999 Equal Opportunities Legislative Review Report.

5. Please indicate the legislative or administrative measures, including recent court decisions, if any, relating to the protection against discrimination on the grounds of language, religion, political or other opinion, sexual orientation or age.

6. With regard to paragraph 73 of the periodic report of Hong Kong, China, please indicate any further measures taken to ensure women's participation in different areas of public affairs, including decision-making boards, the Legislative Council and District Councils. Please elaborate on the respective mandates of the Women's Commission and the additional commissions under the Family Council and describe how these mechanisms coordinate their activities.

Violence against women, including domestic violence (arts. 3 and 7)

7. Please provide updated statistical data covering the period under review on the number of complaints filed concerning all forms of violence against women and the number of convictions handed down, including the sentences imposed and the compensation awarded to victims. With reference to information provided in paragraphs 295–304 of the periodic report of Hong Kong, China, please include further information on the practical implementation of the Domestic and Cohabitation Relations Violence Ordinance (Amended 18 of 2009 s. 4), including examples of case law.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment (arts. 6 and 7)

8. With reference to the information provided in paragraphs 82–88 of the periodic report of Hong Kong, China, please provide updated disaggregated statistical data regarding deaths in custody during the period under consideration, broken down by place of detention, sex, age, ethnicity of the deceased and cause of death. Please give detailed information on the results of the investigations into all deaths and the measures taken to prevent suicides and other sudden deaths in detention centres.

9. Please provide an update concerning the Crimes (Torture) Ordinance, or other efforts to enact a definition of the crime of torture consistent with international standards. With reference to the information provided in paragraph 92 of the periodic report of Hong Kong, China, please provide statistical data on complaints of acts of torture and ill-treatment received by the Complaints against Police Office since the examination of the second periodic report. Please include information on investigations, disciplinary and criminal proceedings, convictions, penal or disciplinary sanctions applied and measures taken for the rehabilitation and compensation offered to victims. Please indicate in how many cases the Complaints against Police Office's investigation was not endorsed by the Independent Police Complaint Council and the reasons for this.

10. According to the information provided in paragraphs 59–62 of the periodic report of Hong Kong, China, the Independent Police Complaint Council, despite its statutory status, has only advisory and oversight functions and its members are appointed by the Chief Executive. In this regard and in the light of the Committee's previous concluding

observations (CCPR/C/HKG/CO/2, para. 9), please provide information on measures taken, if any, to establish a fully independent mechanism mandated to receive and investigate complaints on police misconduct and empowered with the executive authority to formulate binding recommendations in respect of investigations conducted and findings regarding such complaints. Is Hong Kong, China, considering establishing independent complaint mechanisms in other law enforcement departments, such as the Immigration Department, Correctional Services Department, Customs and Excise Department and the Independent Commission against Corruption? Please include information on the number of reported cases of torture or ill-treatment committed by officials of the above-mentioned law enforcement departments since the consideration of the second periodic report of Hong Kong, China, and the penalties imposed on perpetrators of such acts.

11. In its previous concluding observations, the Committee recommended that Hong Kong, China, 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. Please provide updated information on the process to amend the Immigration Ordinance (Cap. 115), *inter alia*, to provide for a process for determining claims made by persons in Hong Kong, China, for non-refoulement protection. Please provide information about the number of persons, broken down by country of origin, who had been granted asylum or humanitarian protection and the number of those who have been returned, extradited or expelled since the consideration of the second periodic report. Please provide details of the grounds on which they were sent back, including a list of countries to which individuals were returned.

Liberty and security of the person and treatment of persons deprived of their liberty (arts. 9 and 10)

12. With reference to the information provided in paragraph 130 of the periodic report of Hong Kong, China, please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention.

13. Please include information on the number of persons deprived of their liberty in psychiatric hospitals and other institutions for persons with psychosocial disabilities. What is the situation with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of outpatient treatment programmes?

Elimination of slavery and servitude (arts. 7 and 8)

14. With reference to the information provided in paragraphs 109–111 of the report, please provide information, on an annual basis since 2006, on complaints investigations, prosecutions and convictions, including penalties, for perpetrators of human trafficking. Please indicate what measures, if any, have been adopted to improve and develop training in the identification of victims of trafficking, especially child victims.

15. Please indicate what measures have been taken to ensure that migrant domestic workers, who are subject to the live-in requirements, are protected from working conditions amounting to forced labour or ill-treatment.

Right to a fair trial and equality before the law (arts. 14 and 26)

16. With reference to the information provided in paragraphs 172–176 of the periodic report, please provide further information on the legal aid system implemented in Hong Kong, China, including on the criteria for eligibility, functioning and financing of the system. Please indicate whether legal aid is made available to all detained persons and

clarify whether asylum seekers have access to legal representation in the refugee status determination procedure.

Prohibition of arbitrary or unlawful interference with privacy, family, home correspondence (art. 17)

17. With reference to the information provided in paragraph 192 of the periodic report of Hong Kong, China, please provide information on the existence of any legislation or guidelines for police videotaping of public demonstration. Please also provide information on the content of the amendments to the Personal Data (Privacy) Ordinance adopted in June 2012.

Freedom of opinion and expression and association and the right to peaceful assembly (arts. 19, 21 and 22)

18. In the light of the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, please provide information on the measures taken to give effect to the right of access to information by public bodies. Please also comment on how freedom of expression is ensured in Hong Kong, China, in particular how a free media is encouraged. What measures are in place to ensure that public broadcasting services operate in an independent manner? Please comment on reports that Hong Kong, China, has seen a sharp deterioration in media and academic freedom, including arrests, assaults and harassment of journalists and academics. In this regard, please provide information on the measures taken to address such harassment and to protect person from attacks aimed at silencing those exercising their right to freedom of expression.

19. Please comment on reports that police used disproportionate force and imposed heavy restrictions on demonstrators and members of the news media during the annual Hong Kong march on 1 July 2011 and the visits of Vice-Premier of China Li Keqiang and President of China Hu Jintao in August 2011 and July 2012, respectively. Please also comment on the alleged harassment by police of participants in the march for the International Day against Homophobia and Transphobia organized on 15 May 2011.

20. With reference to the information provided in paragraph 205 of the report, please provide information on any steps taken to bring the wording of the definition of the offences of treason and sedition in the Crimes Ordinance fully into line with the provisions of the Covenant. In this regard, please indicate the status of the enactment of the national security law under article 23 of the Basic Law.

21. According to the information before the Committee, restrictions continue to be placed on Falun Gong practitioners in Hong Kong, China. Please comment.

Measures for the protection of the family and minors (arts. 6, 7 and 24)

22. Please provide information on the measures taken to ensure that the policies and practices of Hong Kong, China, regarding the right to 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, as recommended by the Committee in 2006.

23. With reference to paragraphs 89, 90, 297 and 298 of the report, please provide information on the content of the final report released by the Review Panel of the Pilot Project on Child Fatality Review in January 2011 and the progress made in the implementation of the recommendations contained therein.

24. In paragraph 308 of its periodic report, referring to corporal punishment in the family, Hong Kong, China, states that it does “not consider that legislation at this stage would be the most effective means of dealing with the issue in Hong Kong”. Please elaborate on the reasons behind this approach and provide further information on the measures taken or envisaged to strengthen the efforts of Hong Kong, China, including resources allocated, in adequately preventing, combating or punishing the practice of corporal punishment in all settings, including in the home and alternative child care.

Participation in public affairs (art. 25)

25. According to the information before the Committee, sections 31, 39 and 51 of the Legislative Council Ordinance and sections 30, 14(2), 19(2)(3) and 24(3) of the District Councils Ordinance exclude people with intellectual or psychosocial disability from voting or standing for election. Please explain the reasons for these exclusions and how they are compatible with article 25 of the Covenant.

Rights of persons belonging to minorities (art. 27)

26. Please provide information on the measures taken to ensure adequate political representation and participation of minorities at all levels of government. Please provide further information on the measures taken to ensure the effective implementation of the 2010 Administrative Guidelines on Promotion of Racial Equality with particular regard to ensuring equal access by ethnic minorities to public services (paras. 372–375 of the report).

27. With regard to paragraphs 384–387 of the report, please clarify what progress has been made with regard to ensuring adequate opportunities for minority children to learn their languages, culture and history.
