

公民權利和政治權利國際公約

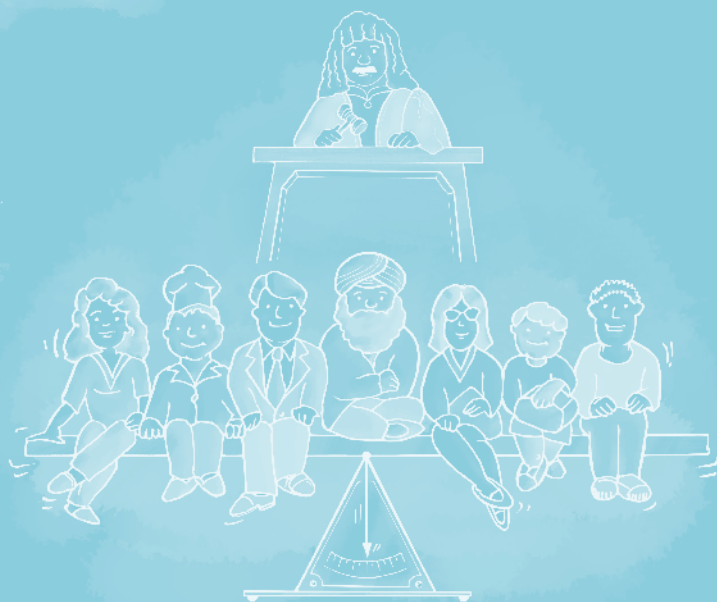
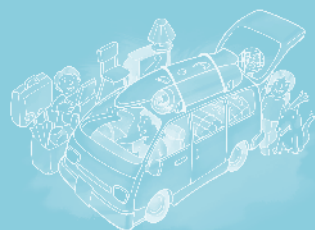
INTERNATIONAL COVENANT ON CIVIL AND

POLITICAL RIGHTS



政制及內地事務局

Constitutional and Mainland Affairs Bureau





公民權利和政治權利國際公約

International Covenant on Civil and Political Rights

序 言

聯合國大會在一九四八年訂立《世界人權宣言》，臚列有關人權的一般原則，作為“所有人民和所有國家努力實現的共同標準”。

為了落實這些原則，聯合國在一九六六年通過兩項有關人權的公約，即《公民權利和政治權利國際公約》和《經濟、社會與文化權利的國際公約》。這兩項公約載列了各項基本人權和自由，並訂明各締約國均有責任採取一切適當措施，以貫徹這些權利。

這兩項公約在一九七六年開始生效，並於同年擴展至適用於香港。《基本法》第三十九條亦訂明，這兩項公約適用於香港的有關規定繼續有效，通過香港特別行政區的法律予以實施。

《公民權利和政治權利國際公約》適用於香港的條文，已通過《香港人權法案條例》在本地法律中生效。

這本小冊子以插畫和淺易的文字介紹《公民權利和政治權利國際公約》的一些主要條文，目的是方便公眾人士了解公約的內容。小冊子的後半部載有公約的原文(為納入《香港人權法案條例》而經修訂)，以便參考。

政制及內地事務局

二零零九年二月

PREFACE

In 1948 the General Assembly of the United Nations adopted the Universal Declaration of Human Rights. The Declaration set out the general principles of human rights “as a common standard of achievement for all peoples and all nations”.

To put those principles into practice, the United Nations adopted two human rights treaties - the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights in 1966. These Covenants set out the basic human rights and fundamental freedoms, and imposed an obligation on all States which became parties to them to implement those rights by all appropriate means.

The two Covenants came into force in 1976. In the same year, they were extended to Hong Kong. Article 39 of the Basic Law also states that the provisions of the two Covenants as applied to Hong Kong shall remain in force and shall be implemented through the law of the Hong Kong Special Administrative Region.

The Hong Kong Bill of Rights Ordinance gives effect in local law to the relevant provisions of the ICCPR as applied to Hong Kong.

This booklet aims to foster a wider understanding of the ICCPR with illustrations of some of the principal provisions adapted for the purpose of the Hong Kong Bill of Rights Ordinance and in language that is easy to understand. The original text of the Covenant is reproduced in the second half of the booklet.

Constitutional and Mainland Affairs Bureau

February 2009



ARTICLE 2

Everyone can enjoy the rights recognized in the Covenant without any discrimination on race, colour, sex, language, religion, political opinion or other status.

第二條

人人可以享受公約確認的權利，不因種族、膚色、性別、語言、宗教、政見或其他身分等而受到歧視。

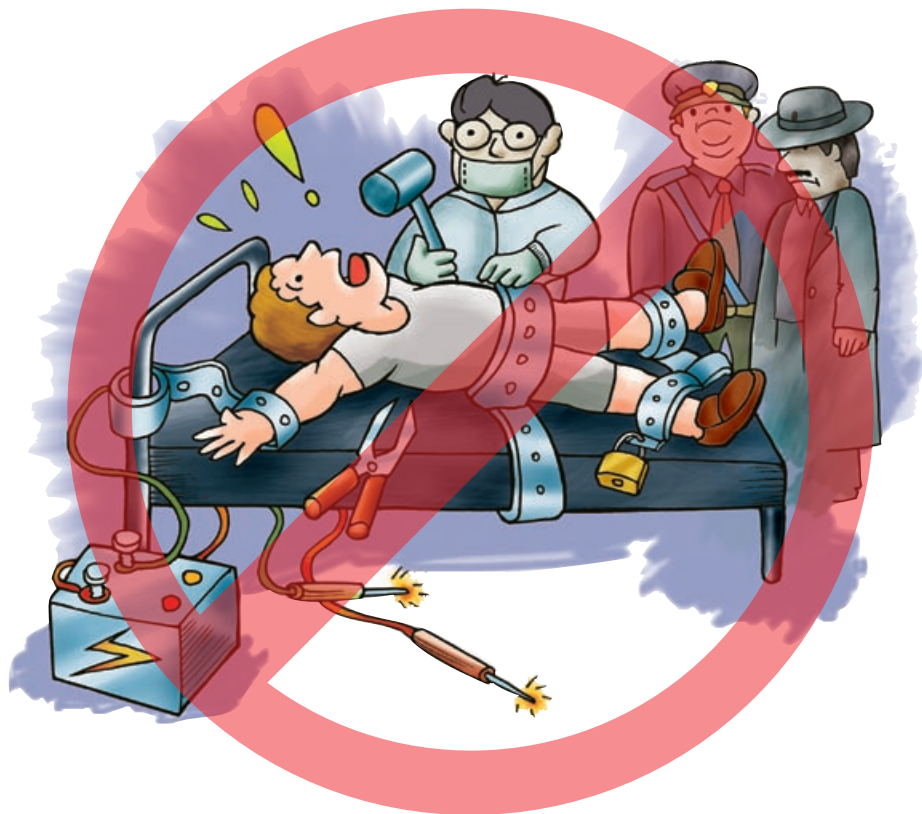


ARTICLE 6

Everyone has the inherent right to life. No one shall be arbitrarily deprived of his life.

第六條

人人皆有天賦的生存權。任何人的生命不得無理剝奪。



ARTICLE 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

第七條

任何人不得施以酷刑，或予以殘忍、不人道或侮辱的處遇或懲罰。



ARTICLE 9

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

第九條

人人有權享有人身自由及安全。任何人不得無理予以逮捕或拘禁。



ARTICLE 10

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

第十條

自由被剝奪的人，應給予人道及尊重其天賦人格尊嚴的待遇。



ARTICLE 12

Everyone lawfully within the territory shall have the right to liberty of movement and freedom to choose his residence.

第十二條

合法居於境內的人，有遷徙往來的自由和擇居自由。



ARTICLE 14

All persons shall be equal before the courts and tribunals.

第十四條

人人在法院或法庭之前，一律平等。



ARTICLE 17

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

第十七條

任何人的私生活、家庭、住宅或通信，不得無理或非法侵擾，其名譽及信用，亦不得非法破壞。



ARTICLE 18

Everyone shall have the right to freedom of thought,
conscience and religion.

第十八條

人人有思想、信念及宗教的自由。



ARTICLE 19

Everyone shall have the right to freedom of expression.

第十九條

人人有自由發表意見的權利。



ARTICLES 21 & 22

Everyone shall have the right of peaceful assembly and
the right to freedom of association with others.

第二十一及二十二條

人人有和平集會和自由結社的權利。



ARTICLE 23

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The right of men and women of marriageable age to marry and to found a family shall be recognised.

第二十三條

男女已達結婚年齡者，其結婚及成立家庭的權利應予確認。
家庭為社會的自然基本團體單位，應受社會及國家的保護。



ARTICLE 24

Every child shall have the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

第二十四條

所有兒童有權享受家庭、社會及國家為其未成年身分給予的必需保護措施。



ARTICLE 25

Every citizen shall have the right and the opportunity to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage*.

* When the Covenant was applied to Hong Kong in 1976, a reservation was made not to apply Article 25(b) insofar as it might require the establishment of an elected Executive or Legislative Council in Hong Kong.

第二十五條

凡屬公民，均應有權利及機會在真正、定期之選舉中投票及被選。
選舉權必須普及而平等*。

* 當此公約於一九七六年被引伸至香港時作出了保留條文，就第二十五條(丑)款可能要求在香港設立經選舉產生的行政局或立法局，保留不實施該條文的權利。



ARTICLE 26

All persons are equal before the law and entitled without any discrimination to the equal protection of the law.

第二十六條

人人在法律上一律平等，且應受法律平等保護，無所歧視。



ARTICLE 27

Persons belonging to ethnic, religious or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

第二十七條

屬於種族、宗教或語言少數團體的人，與團體中其他分子共同享受他們的固有文化，信奉躬行他們的固有宗教，或使用他們固有語言的權利，不得剝奪。

公民權利和政治權利國際公約*

前 文

本公約締約國，

鑒於依據聯合國憲章揭示之原則，人類一家，對於人人天賦嚴及其平等而且不可割讓權利之確認，實係世界自由正義與和平之基礎，

確認此種權利源於天賦人格尊嚴，

確認依據世界人權宣言之昭示，唯有創造環境，使人人除享有經濟社會文化權利而外，並得享受公民及政治權利，始克實現自由人類享受公民及政治自由無所恐懼不虞匱乏之理想，

鑒於聯合國憲章之規定，各國負有義務，必須促進人權及自由之普遍尊重及遵守，

明認個人對他人及對其隸屬之社會，負有義務，故職責所在，必須力求本公約所確認各種權利之促進及遵守，

爰議定條款如下：

第壹編

第一條

- 一. 所有民族均享有自決權，根據此種權利，自由決定其政治地位並自由從事其經濟、社會與文化之發展。
- 二. 所有民族得為本身之目的，自由處置其天然財富及資源，但不得妨害因基於互惠原則之國際經濟合作及因國際法而生之任何義務。無論在何種情形下，民族之生計，不容剝奪。
- 三. 本公約締約國、包括負責管理非自治及託管領土之國家在內，均應遵照聯合國憲章規定，促進自決權之實現，並尊重此種權利。

*又稱「公民及政治權利國際公約」

第貳編

第二條

- 一. 本公約締約國承允尊重並確保所有境內受其管轄之人；無分種族、膚色、性別、語言、宗教、政見或其他主張民族本源或社會階級、財產、出生或其他身分等等，一律享受本公約所確認之權利。
- 二. 本公約締約國承允遇現行立法或其他措施尚無規定時，各依本國憲法程序，並遵照本公約規定，採取必要步驟，制定必要之立法或其他措施，以實現本公約所確認之權利。
- 三. 本公約締約國承允：
 - (子) 確保任何人所享本公約確認之權利或自由如遭受侵害，均獲有效之救濟，公務員執行職務所犯之侵權行為，亦不例外；
 - (丑) 確保上項救濟聲請人之救濟權利，由主管司法、行政或立法當局裁決，或由該國法律制度規定之其他主管當局裁定，並推廣司法救濟之機會；
 - (寅) 確保上項救濟一經核准，主管當局概予執行。

第三條

本公約締約國承允確保本公約所載一切公民及政治權利之享受，男女權利，一律平等。

第四條

- 一. 如經當局正式宣佈緊急狀態，危及國本，本公約締約國得在此種危急情勢絕對必要之限度內，採取措施，減免履行其依本公約所負之義務，但此種措施不得牴觸其依國際法所負之其他義務，亦不得引起純粹以種族、膚色、性別、語言、宗教或社會階級為根據之歧視。
- 二. 第六條、第七條、第八條(第一項及第二項)、第十一條、第十五條、第十六條及第十八條之規定，不得依本條規定減免履行。
- 三. 本公約締約國行使其減免履行義務之權利者，應立即將其減免履行之條

款，及減免履行之理由，經由聯合國秘書長轉知本公約其他締約國。其終止減免履行之日期，亦應另行移文秘書長轉知。

第五條

- 一. 本公約條文不得解釋為國家團體或個人有權從事活動或實行行為，破壞本公約確認之任何一種權利與自由，或限制此種權利與自由逾越本公約規定之程度。
- 二. 本公約締約國內依法律公約條例或習俗而承認或存在之任何基本人權，不得藉口本公約未予確認或確認之範圍較狹，而加以限制或減免義務。

第叁編

第六條

- 一. 人人皆有天賦之生存權。此種權利應受法律保障。任何人之生命不得無理剝奪。
- 二. 凡未廢除死刑之國家，非犯情節最重大之罪，且依照犯罪時有效並與本公約規定及防止及懲治殘害人群罪公約不牴觸之法律，不得科處死刑。死刑非依管轄法院終局判決，不得執行。
- 三. 生命之剝奪構成殘害人群罪時，本公約締約國公認本條不得認為授權任何締約國以任何方式減免其依防止及懲治殘害人群罪公約規定所負之任何義務。
- 四. 受死刑宣告者，有請求特赦或減刑之權。一切判處死刑之案件均得邀大赦、特赦或減刑。
- 五. 未滿十八歲之人犯罪，不得判處死刑，懷胎婦女被判死刑，不得執行其刑。
- 六. 本公約締約國不得援引本條，而延緩或阻止死刑之廢除。

第七條

任何人不得施以酷刑，或予以殘忍、不人道或侮辱之處遇或懲罰。非經本人

自願同意，尤不得對任何人作醫學或科學試驗。

第八條

- 一. 任何人不得使充奴隸、奴隸制度及奴隸販賣，不論出於何種方式，悉應禁止。
- 二. 任何人不得使充奴工。
- 三. (子) 任何人不得使服強迫或強制之勞役；
(丑) 凡犯罪刑罰得科苦役徒刑之國家，如經管轄法院判處此刑，不得根據第三項(子)款規定，而不服苦役；
(寅) 本項所稱“強迫或強制勞役”不包括下列各項：
 - (一) 經法院依法命令拘禁之人，或在此種拘禁假釋期間之人，通常必須擔任而不屬於(丑)款範圍之工作或服役；
 - (二) 任何軍事性質之服役，及在承認人民可以本其信念反對服兵役之國家，依法對此種人徵服之國民服役；
 - (三) 遇有緊急危難或災害禍患危及社會生命安甯時徵召之服役；
 - (四) 為正常公民義務一部分之工作或服役。

第九條

- 一. 人人有權享有身體自由及人身安全。任何人不得無理予以逮捕或拘禁。非依法定理由及程序，不得剝奪任何人之自由。
- 二. 執行逮捕時，應當場向被捕人宣告逮捕原因，並應隨即告知被控案由。
- 三. 因刑事罪名而被逮捕或拘禁之人，應迅即解送法官或依法執行司法權力之其他官員，並應於合理期間內審訊或釋放。候訊人通常不得加以扣押，但釋放得令具報，於審訊時、於司法程序之任何其他階段、並於一旦執行判決時，候傳到場。
- 四. 任何人因逮捕或拘禁而被奪自由時，有權聲請法院提審，以迅速決定其拘禁是否合法，如屬非法，應即令釋放。
- 五. 任何人受非法逮捕或拘禁者，有權要求執行損害賠償。

第十條

- 一. 自由被剝奪之人，應受合於人道及尊重其天賦人格尊嚴之處遇。
- 二. (子) 除特殊情形外，被告應與判決有罪之人分別羈押，且應另予與其未經判決有罪之身分相稱之處遇；
(丑) 少年被告應與成年被告分別扣押並應儘速即予判決。
- 三. 監獄制度所定監犯之處遇，應以使其悛悔自新，重適社會生活為基本目的。少年犯人應與成年犯人分別拘禁，且其處遇應與其年齡及法律身分相稱。

第十一條

任何人不得僅因無力履行契約義務，即予監禁。

第十二條

- 一. 在一國領土內合法居留之人，在該國領土內有遷徙往來之自由及擇居之自由。
- 二. 人人應有自由離去任何國家，連其本國在內。
- 三. 上列權利不得限制，但法律所規定、保護國家安全、公共秩序、公共衛生或他人權利與自由所必要，且與本公約所確認之其他權利不牴觸之限制，不在此限。
- 四. 人人進入其本國之權，不得無理褫奪。

第十三條

本公約締約國境內合法居留之外國人，非經依法判定，不得驅逐出境，且除事關國家安全必須急速處分者外，應准其提出不服驅逐出境之理由，及聲請主管當局或主管當局特別指定之人員予以覆判，並為此目的委託代理人到場申訴。

第十四條

- 一. 人人在法院或法庭之前，悉屬平等。任何人受刑事控告或因其權利義務涉訟須予判定時，應有權受獨立無私之法定管轄法庭公正公開審問。法院得因民主社會之風化、公共秩序或國家安全關係，或於保護當事人私生活有此必要時，或因情形特殊公開審判勢必影響司法而在其認為絕對必要之限度內，禁止新聞界及公眾旁聽審判程序之全部或一部；但除保護少年有此必要，或事關婚姻爭執或子女監護問題外，刑事民事之判決應一律公開宣示。
- 二. 受刑事控告之人，未經依法確定有罪以前，應假定其無罪。
- 三. 審判被控刑事罪時，被告一律有權平等享受下列最低限度之保障：
 - (子) 迅即以其通曉之語言，詳細告知被控罪名及案由；
 - (丑) 給予充分之時間及便利，準備答辯並與其選任之辯護人聯絡；
 - (寅) 立即受審，不得無故稽延；
 - (卯) 到庭受審，及親自答辯或由其選任辯護人答辯；未經選任辯護人者，應告以有此權利；法院認為審判有此必要時，應為其指定公設辯護人，如被告無資力酬償，得免付之；
 - (辰) 得親自或間接詰問他造證人，並得聲請法院傳喚其證人在與他造證人同等條件下出庭作證；
 - (巳) 如不通曉或不能使用法院所用之語言，應免費為備通譯協助之；
 - (午) 不得強迫被告自供或認罪。
- 四. 少年之審判，應顧念被告年齡及宜使其重適社會生活，而酌定程序。
- 五. 經判定犯罪者，有權聲請上級法院依法覆判其有罪判決及所科刑罰。
- 六. 經終局判決判定犯罪，如後因提出新證據或因發見新證據，確實證明原判錯誤而經撤銷原判或免刑者，除經證明有關證據之未能及時披露，應由其本人全部或局部負責者外，因此判決而服刑之人應依法受損害賠償。
- 七. 任何人依一國法律及刑事程序經終局判決判定有罪或無罪開釋者，不得就同一罪名再予審判或科刑。

第十五條

- 一. 任何人之行為或不行為，於發生當時依內國法及國際法均不成罪者，不為罪。刑罰不得重於犯罪時法律所規定。犯罪後之法律規定減科刑罰者，從有利於行為人之法律。
- 二. 任何人之行為或不行為，於發生當時依各國公認之一般法律原則為有罪者，其審判與刑罰不受本條規定之影響。

第十六條

人人在任何所在有被承認為法律人格之權利。

第十七條

- 一. 任何人之私生活、家庭、住宅或通信，不得無理或非法侵擾，其名譽及信用，亦不得非法破壞。
- 二. 對於此種侵擾或破壞，人人有受法律保護之權利。

第十八條

- 一. 人人有思想、信念及宗教之自由。此種權利包括保有或採奉自擇之宗教或信仰之自由，及單獨或集體、公開或私自以禮拜、戒律、躬行及講授表示其宗教或信仰之自由。
- 二. 任何人所享保有或採奉自擇之宗教或信仰之自由，不得以脅迫侵害之。
- 三. 人人表示其宗教或信仰之自由，非依法律，不受限制，此項限制以保障公共安全、秩序、衛生之基本權利自由所必要者為限。
- 四. 本公約締約國承允尊重父母或法定監護人確保子女接受符合其本人信仰之宗教及道德教育之自由。

第十九條

- 一. 人人有保持意見不受干預之權利。
- 二. 人人有發表自由之權利；此種權利包括以語言、文字或出版物、藝術或自己選擇之其他方式，不分國界，尋求、接受及傳播各種消息及思想之自由。

三. 本條第二項所載權利之行使，附有特別責任及義務，故得予以某種限制，但此種限制以經法律規定，且為下列各項所必要者為限：

(子) 尊重他人權利或名譽；

(丑) 保障國家安全或公共秩序、或公共衛生或風化。

第二十條

一. 任何鼓吹戰爭之宣傳，應以法律禁止之。

二. 任何鼓吹民族、種族或宗教仇恨之主張，構成煽動歧視、敵視或強暴者，應以法律禁止之。

第二十一條

和平集會之權利，應予確認。除依法律之規定，且為民主社會維護國家安全或公共安甯、公共秩序、維持公共衛生或風化、或保障他人權利自由所必要者外，不得限制此種權利之行使。

第二十二條

一. 人人有自由結社之權利，包括為保障其本身利益而組織及加入工會之權利。

二. 除依法律之規定，且為民主社會維護國家安全或公共安甯、公共秩序、維持公共衛生或風化、或保障他人權利自由所必要者外，不得限制此種權利之行使。本條並不禁止對軍警人員行使此種權利，加以合法限制。

三. 關於結社自由及保障組織權利之國際勞工組織一九四八年公約締約國，不得根據本條採取立法措施或應用法律，妨礙該公約所規定之保證。

第二十三條

一. 家庭為社會之自然基本團體單位，應受社會及國家之保護。

二. 男女已達結婚年齡者，其結婚及成立家庭之權利應予確認。

三. 婚姻非經婚嫁雙方自由完全同意，不得締結。

四. 本公約締約國應採取適當步驟，確保夫妻在婚姻方面，在婚姻關係存續

期間，以及在婚姻關係消滅時，雙方權利責任平等。婚姻關係消滅時，應訂定辦法，對子女予以必要之保護。

第二十四條

- 一. 所有兒童有權享受家庭、社會及國家為其未成年身分給予之必需保護措施，不因種族、膚色、性別、語言、宗教、民族本源或社會階級、財產或出生而受歧視。
- 二. 所有兒童出生後應立予登記，並取得名字。
- 三. 所有兒童有取得國籍之權。

第二十五條

- 一. 凡屬公民，無分第二條所列之任何區別，不受無理限制，均應有權利及機會：
 - (子) 直接或經由自由選擇之代表參與政事；
 - (丑) 在真正、定期之選舉中投票及被選。選舉權必須普及而平等，選舉應以無記名投票法行之，以保證選民意志之自由表現；
 - (寅) 以一般平等之條件，服本國公職。

第二十六條

人人在法律上一律平等，且應受法律平等保護，無所歧視。在此方面，法律應禁止任何歧視，並保證人人享受平等而有效之保護，以防因種族、膚色、性別、語言、宗教、政見或其他主張、民族本源或社會階級、財產、出生或其他身分而生之歧視。

第二十七條

凡有種族、宗教或語言少數團體之國家，屬於此類少數團體之人，與團體中其他分子共同享受其固有文化、信奉躬行其固有宗教或使用其固有語言之權利，不得剝奪之。

第肆編

第二十八條

- 一. 茲設置人權事宜委員會(本公約下文簡稱委員會)委員十八人，執行以下規定之職務。
- 二. 委員會委員應為本公約締約國國民，品格高尚且在人權問題方面聲譽素著之人士；同時並應計及宜選若干具有法律經驗之人士擔任委員。
- 三. 委員會委員以個人資格當選任職。

第二十九條

- 一. 委員會之委員應自具備第二十八條所規定資格並經本公約締約國為此提名之人士名單中以無記名投票選舉之。
- 二. 本公約各締約國提出人選不得多於二人，所提人選應為提名國國民。
- 三. 候選人選，得續予提名。

第三十條

- 一. 初次選舉至遲應於本公約開始生效後六個月內舉行。
- 二. 除依據第三十四條規定宣告出缺而舉行之補缺選舉外，聯合國秘書長至遲應於委員會各次選舉日期四個月前以書面邀請本公約締約國於三個月內提出委員會委員候選人。
- 三. 聯合國秘書長應就所提出之候選人，按照字母次序編製名單，標明推薦其候選之締約國，至遲於每次選舉日期一個月前，送達本公約締約國。
- 四. 委員會委員之選舉應由聯合國秘書長在聯合國會所召集之締約國會議舉行之，該會議以締約國之三分二出席為法定人數，候選人獲票最多且得出席及投票締約國代表絕對過半數票者當選為委員會委員。

第三十一條

- 一. 委員會不得有委員一人以上為同一國家之國民。

- 二、選舉委員會委員時應計及地域公勻分配及確能代表世界不同文化及各主要法系之原則。

第三十二條

- 一、委員會委員任期四年。續經提名者連選得連任。但第一次選出之委員中九人任期應為二年；任期二年之委員九人，應於第一次選舉完畢後，立由第三十條第四項所稱會議之主席以抽籤方法決定之。
- 二、委員會委員任滿時之改選，應依照本公約本編以上各條舉行之。

第三十三條

- 一、委員會某一委員倘經其他委員一致認為由於暫時缺席以外之其他原因，業已停止執行職務時，委員會主席應通知聯合國秘書長，由其宣告該委員出缺。
- 二、委員會委員死亡或辭職時，委員會主席應即通知聯合國秘書長，由其宣告該委員自死亡或辭職生效之日起出缺。

第三十四條

- 一、遇有第三十三條所稱情形宣告出缺，且須行補選之委員任期不在宣告出缺後六個月內屆滿者，聯合國秘書長應通知本公約各締約國，各締約國得於兩個月內依照第二十九條提出候選人，以備補缺。
- 二、聯合國秘書長應就所提出之候選人，按照字母次序編製名單，送達本公約締約國。補缺選舉應於編送名單後依照本公約本編有關規定舉行之。
- 三、委員會委員之當選遞補依第三十三條規定宣告之懸缺者，應任職至依該條規定出缺之委員會委員任期屆滿時為止。

第三十五條

委員會委員經聯合國大會核准，自聯合國資金項下支取報酬，其待遇及條件由大會參酌委員會所負重大責任定之。

第三十六條

聯合國秘書長應供給委員會必要之辦事人員及便利，俾得有效執行本公約所規定之職務。

第三十七條

- 一．委員會首次會議由聯合國秘書長在聯合國會所召集之。
- 二．委員會舉行首次會議後，遇委員會議事規則規定之情形召開會議。
- 三．委員會會議通常應在聯合國會所或日內瓦聯合國辦事處舉行之。

第三十八條

委員會每一委員就職時，應在委員會公開集會中鄭重宣言，必當秉公竭誠，執行職務。

第三十九條

- 一．委員會應自行選舉其職員，任期二年，連選得連任。
- 二．委員會應自行制定議事規則，其中應有下有下列規定：
 - (子) 委員十二人構成法定人數；
 - (丑) 委員會之決議以出席委員過半數之同意為之。

第四十條

- 一．本公約締約國承允依照不列規定，各就其實施本公約所確認權利而採取之措施，及在享受各種權利方面所獲之進展，提具報告書：
 - (子) 本公約對關係締約國生效後一年內；
 - (丑) 其後遇委員會提出請求時。
- 二．所有報告書應交由聯合國秘書長轉送委員會審議。如有任何因素及困難影響本公約之實施，報告書應予說明。
- 三．聯合國秘書長與委員會商洽後得將報告書中屬於關係專門機關職權範圍之部分副本轉送各該專門機關。

- 四. 委員會應研究本公約締約國提出之報告書。委員會應向締約國提送其報告書及其認為適當之一般評議。委員會亦得將此等評議連同其自本公約締約國收到之報告書副本轉送經濟暨社會理事會。
- 五. 本公約締約國得就可能依據本條第四項規定提出之任何評議向委員會提出意見。

第四十一條

- 一. 本公約締約國得依據本條規定，隨時聲明承認委員會有權接受並審議一締約國指稱另一締約國不履行本公約義務之來文。依本條規定而遞送之來文，必須為曾聲明其本身承認委員會有權之締約國所提出方得予以接受並審查。如來文關涉未作此種聲明之締約國，委員會不得接受之。依照本條規定接受之來文應照下開程序處理：
 - (子) 如本公約某一締約國認為另一締約國未實施本公約條款，得書面提請該締約國注意。受請國應於收到此項來文三個月內，向遞送來文之國家書面提出解釋或任何其他聲明，以闡明此事，其中應在可能及適當範圍內，載明有關此事之本國處理辦法，及業經採取或正在決定或可資援用之救濟辦法。
 - (丑) 如在受請國收到第一件來文後六個月內，問題仍未獲關係締約國雙方滿意之調整，當事國任何一方均有權通知委員會及其他一方，將事件提交委員會。
 - (寅) 委員會對於提請處理之事件，應於查明對此事件可以運用之國內救濟辦法悉已援用無遺後，依照公認之國際法原則處理之。但如救濟辦法之實施有不合理之拖延，則不在此限。
 - (卯) 委員會審查本條所稱之來文時應舉行不公開會議。
 - (辰) 以不牴觸(寅)款之規定為限，委員會應斡旋關係締約國俾以尊重本公約所確認之人權及基本自由為基礎，友善解決事件。
 - (巳) 委員會對於提請處理之任何事件，得請(丑)款所稱之關係締約國提供任何有關情報。
 - (午) (丑)款所稱關係締約國有權於委員會審議此事件時出席並提出口頭及/或書面陳述。

(未) 委員會應於接獲依(丑)款所規定通知之日起十二個月內提出報告書：

- (一) 如已達成(辰)款規定之解決辦法，委員會報告書應以扼要敘述事實及所達成之解決辦法為限。
- (二) 如未達成(辰)款規定之解決辦法，委員會報告書應以扼要敘述事實為限，關係締約國提出之書面陳述及口頭陳述紀錄應附載於報告書內。

關於每一事件，委員會應將報告書送達各關係締約國。

二. 本條之規定應於本公約十締約國發表本條第一項所稱之聲明後生效。此種聲明應由締約國交存聯合國秘書長，由秘書長將聲明副本轉送其他締約國。締約國得隨時通知秘書長撤回聲明。此種撤回不得影響對業經依照本條規定遞送之來文中所提事件之審議；秘書長接得撤回通知後，除非關係締約國另作新聲明，該國再有來文時不予接受。

第四十二條

- 一. (子) 如依第四十一條之規定提請委員會處理之事件未能獲得關係締約國滿意之解決，委員會得經關係締約國事先同意，指派一專設和解委員會(下文簡稱和委會)。和委會應為關係締約國斡旋，俾以尊重本公約為基礎，和睦解決問題；
 - (丑) 和委會由關係締約國接受之委員五人組成之。如關係締約國於三個月內對和委會組成之全部或一部未能達成協議，未得協議之和委會委員應由委員會用無記名投票法以三分二之多數自其本身委員中選出之。
- 二. 和委會委員以個人資格任職。委員不得為關係締約國之國民，或為非本公約締約國之國民，或未依第四十一條規定發表聲明之締約國國民。
- 三. 和委會應自行選舉主席及制定議事規則。
- 四. 和委會會議通常應在聯合國會所或日內瓦聯合國辦事處舉行，但亦得於和委會諮商聯合國秘書長及關係締約國決定之其他方便地點舉行。
- 五. 依第三十六條設置之秘書處應亦為依本條指派之和委會服務。

- 六. 委員會所蒐集整理之情報，應提送和委會，和委會亦得請關係締約國提供任何其他有關情報。
- 七. 和委會於詳盡審議案件後，無論如何應於受理該案件十二個月內，向委員會主席提出報告書，轉送關係締約國：
 - (子) 和委會如未能於十二個月內完成案件之審議，其報告書應以扼要說明審議案件之情形為限；
 - (丑) 和委會如能達成以尊重本公約所確認之人權為基礎之和睦解決問題辦法，其報告書應以扼要說明事實及所達成之解決辦法為限；
 - (寅) 如未能達成(丑)款規定之解決辦法，和委會報告書應載有其對於關係締約國爭執事件之一切有關事實問題之結論，以及對於事件和睦解決各種可能性之意見。此項報告書應亦載有關係締約國提出之書面陳述及所作口頭陳述之紀錄；
 - (卯) 和委會報告書如係依(寅)款之規定提出，關係締約國應於收到報告書後三個月內通知委員會主席願否接受和委會報告書內容。
- 八. 本條規定不影響委員會依第四十一條所負之責任。
- 九. 關係締約國應依照聯合國秘書長所提概算，平均負擔和委會委員之一切費用。
- 十. 聯合國秘書長有權於必要時在關係締約國依本條第九項償還用款之前，支付和委會委員之費用。

第四十三條

委員會委員，以及依第四十二條可能指派之專設和解委員會委員，應有權享受聯合國特權豁免公約內有關各款為因聯合國公務出差之專家所規定之便利、特權與豁免。

第四十四條

本公約實施條款之適用不得妨礙聯合國及各專門機關之組織約章及公約在人權方面所訂之程序，或根據此等約章及公約所訂之程序，亦不得阻止本公約各締約國依照彼此間現行之一般或特別國際協定，採用其他程序解決爭端。

第四十五條

委員會應經由經濟暨社會理事會向聯合國大會提送常年工作報告書。

第五編

第四十六條

本公約之解釋，不得影響聯合國憲章及各專門機關組織法內規定聯合國各機關及各專門機關分別對本公約所處理各種事項所負責任之規定。

第四十七條

本公約之解釋，不得損害所有民族充分與自由享受及利用其天然財富與資源之天賦權利。

第六編

第四十八條

- 一、本公約聽由聯合國會員國或其專門機關會員國、國際法院規約當事國及經聯合國大會邀請為本公約締約國之任何其他國家簽署。
- 二、本公約須經批准。批准書應送交聯合國秘書長存放。
- 三、本公約聽由本條第一項所稱之任何國家加入。
- 四、加入應以加入書交存聯合國秘書長為之。
- 五、聯合國秘書長應將每一批准書或加入書之交存，通知已經簽署或加入本公約之所有國家。

第四十九條

- 一、本公約應自第三十五件批准書或加入書送交聯合國秘書長存放之日起三個月後發生效力。
- 二、對於在第三十五件批准書或加入書交存後批准或加入本公約之國家，本公約應自該國交存批准書或加入書之日起三個月後發生效力。

第五十條

本公約各項規定應一律適用於聯邦國家之全部領土，並無限制或例外。

第五十一條

- 一、本公約締約國得提議修改本公約，將修正案提交聯合國秘書長。秘書長應將提議之修正案分送本公約各締約國，並請其通知是否贊成召開締約國會議，以審議並表決所提議案。如締約國三分之一以上贊成召開會議，秘書長應以聯合國名義召集之。經出席會議並投票之締約國過半數通過之修正案，應提請聯合國大會核可。
- 二、修正案經聯合國大會核可，並經本公約締約國三分二各依本國憲法程序接受後，即發生效力。
- 三、修正案生效後，對接受此種修正之締約國具有拘束力，其他締約國仍受本公約原訂條款及其前此所接受修正案之拘束。

第五十二條

除第四十八條第五項規定之通知外，聯合國秘書長應將下列事項通知同條第一項所稱之所有國家：

(子) 依第四十八條所為之簽署、批准及加入；

(丑) 依第四十九條本公約發生效力之日期，及依第五十一條任何修正案發生效力之日期。

第五十三條

- 一、本公約應交存聯合國檔庫，其中、英、法、俄及西文各本同一作準。
- 二、聯合國秘書長應將本公約正式副本分送第四十八條所稱之所有國家。

為此，下列各代表秉其本國政府正式授予之權，謹簽字於自一九六六年十二月十九日起得由各國在紐約簽署之本公約，以昭信守。

適用於香港特別行政區的 公約條文

聯合王國政府在一九七六年批准公民權利和政治權利國際公約時，曾作出若干保留條文及聲明，並把該公約的適用範圍擴展至包括香港在內的10個英國屬土。

一九九七年六月二十日，中華人民共和國政府於致予聯合國秘書長的照會中稱：

“根據一九八四年十二月十九日簽署的《中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於香港問題的聯合聲明》（以下簡稱《聯合聲明》），中華人民共和國將於一九九七年七月一日起對香港恢復行使主權。自該日起，香港將成為中華人民共和國的一個特別行政區。……此外，根據《聯合聲明》附件一第十一節及基本法第一百五十三條的規定，中華人民共和國尚未參加但已適用於香港的國際協議仍可繼續適用。”

為此，中華人民共和國政府通知聯合國秘書長由一九九七年七月一日起《公民權利和政治權利國際公約》適用於香港的有關規定繼續有效。基本法第三十九條亦對該公約的適用作出規定。

以下為該公約內繼續適用於香港特別行政區的保留條文及聲明：

簽署公約時所作的聲明

「第一，聯合王國政府聲明，該國政府了解，憑藉聯合國憲章第一零三條的規定，倘其根據公約第一條規定的義務，與其根據憲章(特別是憲章第一、二及七十三條)規定的義務有任何抵觸，則以憲章規定的義務為準。」

交存公約的批准書時所提出的保留條文及聲明

「第一，聯合王國政府維持其在簽署公約時就第一條所作的聲明。」

「聯合王國政府保留權利，對其武裝部隊成員和在這些部隊服務的人，以及在任何性質的懲治機構內受合法拘禁的人士，實施其不時認為需要的法律及程序，以維持部隊紀律及囚禁紀律。而聯合王國政府接納公約條文，惟不時為

“The Government of the United Kingdom reserve the right not to apply Article 13 in Hong Kong in so far as it confers a right of review of a decision to deport an alien and a right to be represented for this purpose before the competent authority.”

“The Government of the United Kingdom interpret Article 20 consistently with the rights conferred by Articles 19 and 21 of the Covenant and having legislated in matters of practical concern in the interests of public order (ordre public) reserve the right not to introduce any further legislation. The United Kingdom also reserve a similar right in regard to each of its dependent territories.”

“The Government of the United Kingdom reserve the right to enact such nationality legislation as they may deem necessary from time to time to reserve the acquisition and possession of citizenship under such legislation to those having sufficient connection with the United Kingdom or any of its dependent territories and accordingly their acceptance of Article 24.3 and of the other provisions of the Covenant is subject to the provisions of any such legislation.”

“The Government of the United Kingdom reserve the right not to apply sub-paragraph (b) of Article 25 in so far as it may require the establishment of an elected Executive or Legislative Council in Hong Kong...”.

Declaration under Article 41 dated 17 May 1976

“The Government of the United Kingdom declares under Article 41 of this Covenant that it recognizes the competence of the Human Rights Committee to receive and consider communications submitted by another State Party, provided that such other State Party has, not less than twelve months prior to the submission by it of a communication relating to the United Kingdom, made a declaration under Article 41 recognizing the competence of the Committee to receive and consider communications relating to itself.”

達致上述目的而依法制定的限制必須得以實施。」

「在缺乏適當監獄設施時，或在成年人及少年混合拘禁被認為會互為有利，則聯合王國政府保留權利，不實施第十條二款(丑)段及第十條三款有關被拘禁的少年須與成年人分開收押的規定……」

「聯合王國政府保留權利，解釋第十二條一款有關一國領土的條文為分別適用於組成聯合王國及其屬土的每一領土。」

「聯合王國政府保留權利，不時按其需要，繼續實施有關管制進入聯合王國、逗留於及離開聯合王國的出入境法例。因此，聯合王國政府接納公約第十二條四款及其他條文，惟聯合王國對當時無權進入及在聯合王國停留人士法例規定，必須得以實施。聯合王國亦就其每一屬土，保留同樣的權利。」

「聯合王國政府保留權利，不在香港實施第十三條有關賦予外國人就驅逐他出境的判定要求覆判的權利，以及賦予他為此目的委託代理人向主管當局申訴的權利的規定。」

「聯合王國政府對第二十條的解釋，與公約第十九條及二十一條所賦予的權利一致；而因已在保障公共秩序事項方面作出立法，因此保留權利不再制訂進一步法例。聯合王國亦就其每一屬土，保留同樣權利。」

「聯合王國政府保留權利，不時按其需要，制訂國籍法例，以便與聯合王國或其任何屬土有密切聯繫的人，可根據該等法例取得及擁有公民身份。因此，聯合王國政府接納公約第二十四條三款及其他條文，惟該等有關法例條文必須得以實施。」

「聯合王國政府就第二十五條(丑)款可能要求在香港設立經選舉產生的行政局或立法局，保留不實施該條文的權利。」

一九七六年五月十七日根據第四十一條所作的聲明

「聯合王國政府根據本公約第四十一條的規定，聲明承認人權事宜委員會有權接受和審議由另一締約國所提出的來文，惟該締約國在作出一項與聯合王國有關的來文時，必須在不少於十二個月之前，根據第四十一條的規定，聲明承認委員會有權接受和審議與其本身有關的來文。」

INTERNATIONAL COVENANT - ON CIVIL AND POLITICAL RIGHTS

PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

ARTICLE 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

ARTICLE 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:
 - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - (c) To ensure that the competent authorities shall enforce such remedies when granted.

ARTICLE 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

ARTICLE 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

ARTICLE 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

ARTICLE 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

ARTICLE 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

ARTICLE 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;
(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
(c) For the purpose of this paragraph the term “forced or compulsory labour” shall not include:

- (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
- (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
- (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
- (iv) Any work or service which forms part of normal civil obligations.

ARTICLE 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

ARTICLE 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

ARTICLE 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

ARTICLE 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

ARTICLE 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

ARTICLE 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

- (c) To be tried without undue delay;
 - (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
 6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
 7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

ARTICLE 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

ARTICLE 16

Everyone shall have the right to recognition everywhere as a person before the law.

ARTICLE 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

ARTICLE 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

ARTICLE 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

ARTICLE 2 1

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

ARTICLE 2 2

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

ARTICLE 2 3

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

ARTICLE 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

ARTICLE 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

ARTICLE 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

ARTICLE 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

ARTICLE 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

ARTICLE 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

ARTICLE 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

ARTICLE 3 1

1. The Committee may not include more than one national of the same State.
2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

ARTICLE 3 2

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

ARTICLE 3 3

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

ARTICLE 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.
2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.
3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

ARTICLE 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

ARTICLE 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

ARTICLE 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

ARTICLE 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

ARTICLE 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
 - (a) Twelve members shall constitute a quorum;
 - (b) Decisions of the Committee shall be made by a majority vote of the members present.

ARTICLE 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
 - (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

ARTICLE 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
 - (a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and

- pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;
- (b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
 - (c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;
 - (d) The Committee shall hold closed meetings when examining communications under this article;
 - (e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;
 - (f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
 - (g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;
 - (h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:
 - (i) If a solution within the terms of subparagraph (e) is reached, the

Committee shall confine its report to a brief statement of the facts and of the solution reached;

- (ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

ARTICLE 42

1. (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

- (b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.
 3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
 4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.
 5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.
 6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.
 7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:
 - (a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

- (b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;
 - (c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;
 - (d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.
- 8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.
 - 9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
 - 10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

ARTICLE 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

ARTICLE 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

ARTICLE 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

ARTICLE 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

ARTICLE 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

ARTICLE 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

ARTICLE 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

ARTICLE 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

ARTICLE 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

ARTICLE 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 48;
- (b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

ARTICLE 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

APPLICATION OF THE COVENANT TO THE HONG KONG SPECIAL ADMINISTRATIVE REGION

In 1976, the Government of the United Kingdom ratified the International Covenant on Civil and Political Rights with certain reservations and declarations, and extended the Covenant to 10 British dependent territories including Hong Kong.

On 20 June 1997, the Government of the People's Republic of China notified the United Nations Secretary-General in a Note that-

"In accordance with the Joint Declaration of the Government of the United Kingdom of Great Britain and North Ireland and the Government of the People's Republic of China on the Question of Hong Kong signed on 19 December 1984 (hereinafter referred to as the Joint Declaration), the People's Republic of China will resume the exercise of sovereignty over Hong Kong with effect from 1 July 1997. Hong Kong will, with effect from that date, become a Special Administrative Region of the People's Republic of China. ... Furthermore, it is provided both in Section XI of Annex I to the Joint Declaration and Article 153 of the Basic Law that international agreements to which the People's Republic of China is not a party but which are implemented in Hong Kong may continue to be implemented in the Hong Kong Special Administrative Region."

In this connection, the Government of the People's Republic of China informed the United Nations Secretary-General that the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force beginning from 1 July 1997. The application of the Covenant is also provided for in Article 39 of the Basic Law.

The reservations and declarations in the Covenant which continue to apply to the Hong Kong Special Administrative Region are as follows-

Declaration made on signing the Covenant

"First, the Government of the United Kingdom declare their understanding that, by virtue of Article 103 of the Charter of the United Nations, in the event of any conflict between their obligations under Article 1 of the Covenant and

their obligations under the Charter (in particular, under Articles 1, 2 and 73 thereof) their obligations under the Charter shall prevail.”

Declarations and reservations made on depositing the instrument of ratification of the Covenant

“Firstly the Government of the United Kingdom maintain their declaration in respect of Article 1 made at the time of signature of the Covenant.”

“The Government of the United Kingdom reserve the right to apply to members of and persons serving with the armed forces of the Crown and to persons lawfully detained in penal establishments of whatever character such laws and procedures as they may from time to time deem to be necessary for the preservation of service and custodial discipline and their acceptance of the provisions of the Covenant is subject to such restrictions as may for these purposes from time to time be authorized by law.”

“Where at any time there is a lack of suitable prison facilities or where the mixing of adults and juveniles is deemed to be mutually beneficial, the Government of the United Kingdom reserve the right not to apply Article 10.2(b) and 10.3 so far as those provisions require juveniles who are detained to be accommodated separately from adults, ...”

“The Government of the United Kingdom reserve the right to interpret the provisions of Article 12.1 relating to the territory of a State as applying separately to each of the territories comprising the United Kingdom and its dependencies.”

“The Government of the United Kingdom reserve the right to continue to apply such immigration legislation governing entry into, stay in and departure from the United Kingdom as they may deem necessary from time to time and, accordingly, their acceptance of Article 12.4 and of the other provisions of the Covenant is subject to the provisions of any such legislation as regards persons not at the time having the right under the law of the United Kingdom to enter and remain in the United Kingdom. The United Kingdom also reserves a similar right in regard to each of its dependent territories.”



相關網站 Relevant websites

政制及內地事務局

Constitutional and Mainland
Affairs Bureau

www.cmab.gov.hk

律政司 國際公約 — 人權
Human Rights — Treaties,
Department of Justice

www.legislation.gov.hk/cinterlaw.htm#Human%20Rights
www.legislation.gov.hk/interlaw.htm#Human%20Rights

律政司 雙語法例資料系統
Bilingual Laws Information
System, Department of Justice

www.legislation.gov.hk/index.htm

律政司 法律詞彙
Glossaries of Legal Terms,
Department of Justice

www.doj.gov.hk/chi/public/pub20030007.htm
www.doj.gov.hk/eng/public/pub20030007.htm

立法會
Legislative Council

www.legco.gov.hk

司法機構
Judiciary

www.judiciary.gov.hk

平等機會委員會
Equal Opportunities Commission

www.eoc.org.hk

申訴專員公署
Office of The Ombudsman

www.ombudsman.gov.hk

個人資料私隱專員公署
Office of the Privacy
Commissioner for Personal Data

www.pcpd.org.hk

法律援助署
Legal Aid Department


www.lad.gov.hk

聯合國人權事務委員會
United Nations Human Rights
Committee

www2.ohchr.org/english/bodies/hrc/index.htm
(English only)

聯合國人權事務高級專員辦公室
United Nations Office of the
High Commissioner for Human
Rights

www.ohchr.org/EN/Pages/WelcomePage.aspx
(English only)



香港特別行政區政府
政制及內地事務局
政府物流服務署印

Hong Kong Special Administrative Region Government
Constitutional and Mainland Affairs Bureau
Printed by the Government Logistics Department