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Concluding observations on the fourth periodic report of Hong Kong, China*

1. The Committee considered the fourth periodic report of Hong Kong, China,[1] at its 3891st, 3893rd and 3895th meetings,[2] held on 7, 8 and 12 July 2022, in a hybrid format owing to restrictions imposed in connection with the coronavirus disease (COVID-19) pandemic. At its 3912th meeting, held on 22 July 2022, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Hong Kong, China, and the information presented therein. It expresses appreciation for the opportunity to engage in constructive dialogue with the delegation of Hong Kong, China, on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful for the written replies[3] to the list of issues,[4] which were supplemented by the oral responses provided by the delegation, and for the additional information subsequently provided to it in writing.

B. Positive aspects

3. The Committee welcomes:

(a) The adoption of the Sex Discrimination (Amendment) Ordinance 2021;

(b) The adoption of the Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020;

(c) The establishment in 2018 of the Commission on Children to formulate long-term targets and strategic directions concerning the holistic development and important growth stages of children;

(d) The introduction in 2015 of statutory paternity leave;

(e) The launch in 2014 of the Unified Screening Mechanism.

* Adopted by the Committee at its 135th session (27 June–27 July 2022).

[1] CCPR/C/CHN-HKG/4.

[2] See CCPR/C/SR.3891, CCPR/C/SR.3893 and CCPR/C/SR.3895.

[3] CCPR/C/CHN-HKG/RQ/4.

[4] CCPR/C/CHN-HKG/Q/4.

C. Principal matters of concern and recommendations

Constitutional and legal framework within which the Covenant is implemented

4. The Committee acknowledges the commitment by both the Central People's Government and the Government of Hong Kong, China, to the principle of "one country, two systems", which is aimed at preserving the autonomy of the Government of Hong Kong, China, in managing its own affairs. The Committee notes the unique legislative arrangements under this principle and the complexities therein surrounding the fulfilment by Hong Kong, China, of its Covenant obligations, given the fact that the Central People's Government is not bound by the Covenant. It also notes with appreciation that the provisions of the Covenant have been incorporated or guaranteed in local laws of Hong Kong, China, including the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the Hong Kong Bill of Rights Ordinance. However, the Committee is deeply concerned that the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law) prevails over other local laws in case of conflicts and consequently overrides fundamental rights and freedoms protected by the Covenant. Reiterating its previous concerns about the constitutional interpretation by the Standing Committee of the National People's Congress, the Committee is also concerned about the absence of measures to ensure full conformity with the Covenant of the Standing Committee's interpretation of the Basic Law (arts. 2 and 14).

5. **Hong Kong, China, should ensure that the Covenant prevails over local legislation and laws applicable in Hong Kong, China, including the National Security Law, and bring these laws and practices in full conformity with the Covenant. It should also ensure that all interpretations, including those by the Standing Committee, of the Basic Law and all other laws applicable in Hong Kong, China, and all practices are in full conformity with the Covenant and with the principle of "one country, two systems".**

National human rights institution

6. While noting the assertion by Hong Kong, China, about the existing institutional framework of statutory organizations mandated to promote and safeguard human rights, namely the Equal Opportunities Commission, the Office of the Privacy Commissioner for Personal Data, and the Ombudsman, the Committee remains concerned about the gaps in the mandate and powers of those organizations, individually and collectively, to promote and protect all the rights enshrined in the Covenant, and about their insufficient independence in carrying out their respective mandates (arts. 2 and 14).

7. **The Committee urges Hong Kong, China, to establish an independent national human rights institution with a comprehensive mandate and appropriate powers in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Until such an institution is established, Hong Kong, China, should take concrete measures to strengthen the independence and effectiveness of the existing institutions and to expand their mandates.**

Non-discrimination

8. The Committee notes the efforts made by Hong Kong, China, to improve its anti-discrimination legislation, including the adoption of the Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020 and the Sex Discrimination (Amendment) Ordinance 2021. The Committee, however, remains concerned about the persisting lacuna in the existing anti-discrimination framework with regard to protection against all forms of discrimination based on all prohibited grounds of discrimination, including age, sexual orientation and gender identity, in all spheres, and the fragmentary approach of Hong Kong, China, to addressing it. In this context, the Committee regrets the explicit intention of Hong Kong, China, not to adopt comprehensive anti-discrimination legislation. Furthermore, the Committee is concerned that a minimal number of racial discrimination complaints have been filed with the Equal Opportunities Commission despite the reportedly frequent incidents of racial discrimination experienced by migrant workers, and that none of the discrimination

claims brought before the Commission under the four anti-discrimination ordinances has been successful (arts. 2, 3, 25 and 26).

9. **The Committee urges Hong Kong, China, to reconsider its position and to take concrete steps to adopt comprehensive anti-discrimination legislation that prohibits all forms of direct, indirect and multiple discrimination, based on all prohibited grounds of discrimination, including age, sexual orientation and gender identity in all public and private spheres. Hong Kong, China, should enhance the capacity and effectiveness of the Equal Opportunities Commission to competently carry out its complaints-handling and other mandates.**

Discrimination against lesbian, gay, bisexual, transgender and intersex persons

10. The Committee is concerned about the lack of effort made by Hong Kong, China, to raise awareness among its population of the effects of discrimination based on sexual orientation and gender identity on victims. It is also concerned about the absence of a legal framework to address the discrimination, harassment, hate speech and hate crimes that lesbian, gay, bisexual, transgender and intersex persons continuously face. It is further concerned that, despite an interdepartmental working group on gender recognition having been established in 2014, no progress has been made towards drafting a law on gender recognition, and transgender persons continue to be required to undergo surgery in order to have their gender marker changed in their identity documents (arts. 2, 25 and 26).

11. **Hong Kong, China, should:**

(a) **Intensify its efforts to combat discrimination against lesbian, gay, bisexual, transgender and intersex persons, including by conducting public awareness-raising campaigns;**

(b) **Adopt a legal framework to explicitly prohibit and prevent discrimination, harassment, hate speech and hate crimes against lesbian, gay, bisexual, transgender and intersex persons, ensure that all such cases are thoroughly investigated, prosecuted and sanctioned, and provide access to effective remedies for victims;**

(c) **Put in place a quick, transparent and accessible procedure for the legal gender recognition of transgender persons and immediately discontinue the policy of requiring medically unnecessary gender-reassignment surgery.**

National Security Law

12. The Committee notes with concern that the National Security Law was passed by the National People's Congress without consultation with the public and civil society in Hong Kong, China. The Committee is deeply concerned about the overly broad interpretation and arbitrary application of the Law, reportedly leading to the arrests of more than 200 persons since its enactment in 2020, including 12 children, on grounds of endangering national security, and 44 of the charges against the 12 persons convicted under the Law not falling within the four categories of offences specified therein. Furthermore, it is concerned that, despite article 4 of the Law guaranteeing respect for and protection of human rights in safeguarding national security, the application of the Law and the implementation rules established under article 43 thereof have unduly restricted a wide range of Covenant rights, as mentioned throughout the present concluding observations (arts. 2, 4, 7, 9, 10, 12, 14, 15, 17, 18, 19, 21, 22 and 25).

13. The Committee notes with grave concern the following shortcomings of the National Security Law:

(a) The lack of clarity on "national security" and on the types of behaviour and conduct that constitute a criminal offence under the Law, which undermines the principle of legal certainty;

(b) The transfer of national security cases to the organs of the Central People's Government, China not being a party to the Covenant, for investigation, prosecution, trial and execution of penalties, as provided for in articles 55, 56 and 57, which may lead to de facto breach of obligations of Hong Kong, China, under the Covenant;

(c) The absence of mechanisms under the Law to allow suspects of national security offences to challenge enforcement measures taken by the authorities of the Central People's Government and seek judicial remedies in case of violation of Covenant rights by law enforcement officers of the Central People's Government;

(d) The excessive power of the Chief Executive and other measures provided for in the Law, which can effectively undermine the independence of judiciary and procedural safeguards for access to justice and the right to a fair trial, as specified in paragraph 35 below;

(e) The extensive investigative powers of the Hong Kong Police Force's department for safeguarding national security and the absence of judicial oversight thereof, provided for under article 43 of the Law and the implementation rules;

(f) The lack of clarity on the grounds for invoking the Law's extraterritorial application (arts. 2, 4, 7, 9, 10, 12, 14, 15, 17, 18, 19, 21, 22 and 25).

14. **The Committee welcomes the assurances by the delegation that the development of future legislation under article 23 of the Basic Law would involve public consultations. Hong Kong, China, should:**

(a) **Take concrete steps to repeal the current National Security Law and, in the meantime, refrain from applying it;**

(b) **Ensure that the legislative process for enacting a new national security law is inclusive and transparent and facilitates the free, open and meaningful participation of civil society and the public, and that the concerns relating to the current National Security Law expressed by international human rights mechanisms, including this Committee, are addressed with a view to ensuring that the new legislation fully conforms with the Covenant.**

Sedition

15. Noting that the offence of sedition under the Crimes Ordinance was invoked in 2020 for the first time in decades, the Committee is concerned that a number of academics, journalists and representatives of civil society have been arrested and charged with seditious offences for having legitimately exercised their right to freedom of speech by, for example, chanting slogans in public, clapping in courts and expressing criticism of government activities. Law enforcement officials and prosecutors have allegedly failed to specify the precise nature of the threat posed by such activities. The Committee is particularly concerned that sedition is regarded as a national security crime and sedition cases are therefore investigated by the Hong Kong Police Force's department for safeguarding national security, as upheld by the Court of Final Appeal. It is also concerned about the excessive investigative powers under the implementation rules, which are also applicable to sedition cases (arts. 2, 4, 7, 9, 10, 12, 14, 15, 17, 18, 19, 21, 22 and 25).

16. **Hong Kong, China, should:**

(a) **Repeal the sedition provisions under the Crimes Ordinance and refrain from using them to suppress the expression of critical and dissenting opinions;**

(b) **Immediately stop applying the National Security Law and the implementation rules to sedition cases;**

(c) **Review pending sedition cases to ensure no one is prosecuted or targeted for the legitimate exercise of the right to freedom of expression.**

State of emergency

17. The Committee is concerned that the Emergency Regulations Ordinance is not in conformity with article 4 of the Covenant and notes the following: (a) the unfettered power conferred on the Chief Executive to make regulations without any effective vetting procedures through the legislature, for the breach of which criminal penalties up to life imprisonment may be imposed; (b) the absence of definitions of "emergency" and "public danger", constituting failure to meet the threshold of state of emergency stipulated in article 4 of the Covenant; (c) the lack of adequate judicial review of the regulations, which deprives

the persons subject to them of their right to challenge the legality, necessity and proportionality of such measures; and (d) the absence of the explicit prohibition of derogations from non-derogable provisions of the Covenant during a state of emergency (arts. 2, 4, 7, 9, 10, 12, 14, 15, 17, 18, 19, 21, 22 and 25).

18. **Hong Kong, China, should revise the Emergency Regulations Ordinance with a view to bringing it into full compliance with article 4 of the Covenant and the Committee's general comment No. 29 (2001) (article 4).**

Right of peaceful assembly and excessive use of force

19. The Committee regrets the absence of specific information provided by Hong Kong, China, on guidelines and orders regarding the use of force by police officers, and is concerned that existing guidelines and orders are allegedly not compliant with the Covenant and relevant international human rights standards. The Committee is deeply concerned about the excessive and indiscriminate use of less-lethal weapons and chemical substances, including rubber pellets, sponge bullets, tear gas and water cannons containing chemical irritants, against unarmed protesters, including pregnant women, bystanders, commuters and journalists, during protests from July to November 2019. It is also concerned about the instruction given by the commander-in-chief of the riot police to his subordinates to aim for and shoot at protestors' heads in the context of protests near City University of Hong Kong. Furthermore, the Committee is concerned about the absence of information regarding the outcome of investigations into complaints lodged against the police and the extent and nature of disciplinary action, if any, faced by individual police officers held liable in this regard (arts. 6, 7, 9, 10, 14 and 21).

20. **Hong Kong, China, should take concrete measures to effectively prevent and eliminate all forms of excessive use of force by law enforcement officers. In particular, it should:**

(a) **Ensure that all allegations of excessive use of force by police, particularly in the policing of protests from July to November 2019, are investigated promptly, thoroughly and impartially, that those responsible are prosecuted and, if found guilty, punished, and that the victims obtain redress; and consider establishing a commission of inquiry in this regard;**

(b) **Review the existing guidelines and regulations on the use of force by law enforcement officials to ensure their full conformity with the Covenant, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;**

(c) **Strengthen training of law enforcement officials on the use of force, especially in the context of demonstrations, and the employment of non-violent means and crowd control;**

(d) **Maintain records on the use of force by law enforcement officials, which should be available for public scrutiny.**

Police oversight mechanisms

21. The Committee is concerned that Hong Kong, China, has taken no concrete steps to implement the Committee's previous recommendation that it establish a fully independent police oversight mechanism. The Committee remains concerned about the lack of independence, capacity and powers of the Complaints Against Police Office and of the Independent Police Complaints Council, as confirmed by a panel of international experts in a progress report and by the High Court in a judgment of 19 November 2020 (arts. 6, 7, 9, 10 and 14).

22. **The Committee urges Hong Kong, China, to take concrete steps, without delay, to establish a fully independent mechanism with adequate powers and a mandate to conduct a proper investigation into complaints of misconduct or abuse of power by the police and to formulate binding decisions in respect of investigations conducted and findings thereon.**

Treatment of persons deprived of their liberty

23. The Committee regrets the absence of updated and detailed information on deaths in detention and on the complaints filed with the Complaints Investigation Unit under the Correctional Services Department about torture, ill-treatment and abuse of authority in correctional institutions. The Committee is concerned about the ineffectiveness of the existing complaints mechanisms for persons deprived of their liberty, namely the Complaints Investigation Unit and justices of the peace, due to their lack of independence, powers and capacity (arts. 6, 7, 9, 10 and 14).

24. **Hong Kong, China, should take concrete measures to eradicate torture and ill-treatment, in particular by:**

(a) **Ensuring that all persons deprived of their liberty have access to an independent and effective complaints mechanism without fear of reprisal;**

(b) **Establishing an independent complaints mechanism with adequate powers and capacity, mandated to deal with complaints about torture, ill-treatment and abuse of authority in places of detention and to conduct visits and monitoring of such places without prior notice and on an unsupervised basis;**

(c) **Ensuring that all allegations of torture and ill-treatment are promptly, thoroughly and effectively investigated, that perpetrators are prosecuted and, if convicted, punished appropriately, and that victims receive full reparation.**

Treatment of aliens, including migrants, refugees and asylum-seekers

25. The Committee is concerned that there is no legal framework governing the granting of asylum and subsequently that all asylum-seekers, including those fleeing from torture and other serious human rights violations, are subject to immigration laws, rendering their stay illegal and subjecting them to negative stereotypes and the denial of their basic rights. While noting the launch in 2014 of the Unified Screening Mechanism, the Committee remains concerned about the minimal rate of substantiation of non-refoulement claims, at only 1.25 per cent, about the very high number of judicial review applications to challenge Unified Screening Mechanism decisions, and about the non-publication of the decisions made by the Torture Claims Appeal Board. It is also concerned that asylum-seekers, including those whose applications have been granted, are prohibited from working in Hong Kong, China, in general and live on the Government-funded humanitarian assistance, which is far below subsistence level, and that their children have no access to tertiary education (arts. 7, 9, 12, 13, 14 and 24).

26. **Hong Kong, China, should:**

(a) **Review its overall immigration policy and legislation with a view to bringing them into line with international human rights and humanitarian standards, strengthening the protection of migrants, asylum-seekers and refugees and combating negative stereotypes;**

(b) **Enhance the effectiveness of the Unified Screening Mechanism and the quality of decisions by rationalizing the threshold for granting protection, improving legal counsel and interpretation services, raising awareness among claimants about the procedures and publishing the decisions of the Torture Claims Appeal Board;**

(c) **Take concrete measures to allow asylum-seekers to work, raise the level of humanitarian assistance to ensure an adequate standard of living, and allow asylum-seeking children to access tertiary education.**

27. The Committee is concerned that the policy of Hong Kong, China, for dealing with asylum-seekers appears to be based on the legal framework of administrative detention. In this context, it is particularly concerned about the broad powers of the Immigration Department to detain persons pending removal and during screening of non-refoulement claims, often for excessive periods of time, and that these powers have been further expanded through amendments to the Immigration Ordinance in 2021, and about the decision to increase the capacity of immigration detention by converting the Tai Tam Gap Correctional Institution into an immigration detention centre. The Committee is also concerned about the

limited procedural safeguards against the arbitrary detention of asylum-seekers, including judicial oversight and protection of individuals in vulnerable situations, provided for in the Immigration (Amendment) Ordinance 2021 (arts. 7, 9, 12, 13, 14 and 24).

28. **Hong Kong, China, should:**

(a) **Avoid the administrative detention of asylum-seekers and migrants, prioritizing non-custodial alternatives and ensuring that detention is used only as a measure of last resort and for the shortest possible period of time, and avoid separating migrant families;**

(b) **Review the Immigration (Amendment) Ordinance 2021 with a view to bringing its immigration policy and legislation into line with international human rights and humanitarian standards and international best practices;**

(c) **Strengthen the procedural safeguards against arbitrary detention, including judicial oversight and individual assessment of asylum-seekers, particularly those in vulnerable situations.**

Trafficking in persons

29. While noting the efforts made by Hong Kong, China, to combat trafficking in persons, including the adoption of an action plan and increased training provided for law enforcement officials, the Committee remains concerned at the persisting gap in terms of prohibiting all forms of trafficking in persons in the various provisions of laws relating to trafficking in persons. Regretting the lack of clarification by Hong Kong, China, on the definition of victims of trafficking in persons used under the victim screening procedure, the Committee is concerned about the very small number of victims identified through the procedure. The Committee also notes with regret the expressed intention not to extend the application of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, to Hong Kong, China (arts. 2, 7, 8 and 26).

30. **Hong Kong, China, should:**

(a) **Review its legal provisions on combating trafficking with a view to criminalizing all forms of trafficking in persons in accordance with relevant international human rights standards and consider adopting a comprehensive anti-trafficking law to this end;**

(b) **Improve the quality of victim screening and identification, including by reviewing the definition of victims of trafficking in persons and strengthening training for law enforcement officials; protect the victims, including from sanctioning in immigration proceedings or for crimes that they are compelled to commit; and provide them with all necessary assistance;**

(c) **Ensure that cases of trafficking are thoroughly investigated and that perpetrators are prosecuted and, if found guilty, given sentences commensurate with the seriousness of their crimes;**

(d) **Reconsider its position and take steps towards extending the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, to Hong Kong, China, in order to strengthen its commitment to fighting trafficking in persons in the region.**

Migrant workers

31. While noting some isolated cases in which migrant domestic workers were permitted to change employers based on evidence of exploitation or abuse committed against them, the Committee is concerned that Hong Kong, China, has not taken concrete steps to repeal the two-week rule – which stipulates that migrant domestic workers must find new employment or leave Hong Kong, China, within two weeks of the end of an employment contract – or to adopt a systematic approach to address the adverse effects of this rule on the enjoyment of Covenant rights by migrant domestic workers. It is also concerned that this rule, along with

the live-in requirements, continues to put migrant domestic workers at high risk of abuse and exploitation by their employers and employment agencies and to prevent them from reporting exploitative employment and abuse, owing to fears of losing their jobs and having to leave Hong Kong, China (arts. 2, 7, 8 and 26).

32. **The Committee recalls its previous recommendations. Hong Kong, China, should repeal the two-week rule and the live-in requirements and in the meantime take concrete action to address their adverse effects on migrant domestic workers. It should also provide effective complaints mechanisms for reporting abuse and exploitation, taking into account the unique working situations of migrant domestic workers, and ensure that cases of exploitation and abuse are thoroughly investigated, that perpetrators are prosecuted and, if found guilty, punished with appropriate sanctions, and that victims have access to effective remedies.**

Access to justice, independence of the judiciary and the right to a fair trial

33. The Committee is concerned that the recent legal aid reform has further restricted the rights legal aid and to counsel of choice, particularly in the case of persons charged under the National Security Law, by hindering those seeking legal aid from choosing their own criminal lawyers and limiting the number of judicial review cases that solicitors and barristers are allowed to take on annually (arts. 2 and 14).

34. **Hong Kong, China, should take effective measures, including by establishing an independent legal aid authority, to guarantee the rights to timely and competent legal aid and to counsel of choice, including in the case of persons charged under the National Security Law.**

35. The Committee is deeply concerned that certain provisions of the National Security Law substantially undermine the independence of judiciary and restrict the right of access to justice and the right to a fair trial. In particular, it is concerned that:

(a) Articles 44 and 47 provide the Chief Executive with excessive power, such as the power to appoint judges, from a list that is not made public and in consultation with the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region and the Chief Justice of the Court of Final Appeal, to hear national security cases, and the power to issue a binding certificate to the courts whether an act involves national security or whether the relevant evidence involves State secrets when such questions arise in the adjudication of a case;

(b) Article 44 also provides that judges who make any statement or behaved in any manner endangering national security will be removed;

(c) Article 42 introduces a more stringent threshold for bail in national security cases than in other cases, as pointed out by the Court of Final Appeal in February 2021, which creates a presumption against bail for those charged under the Law; approximately 74 per cent of persons charged with national security crimes have allegedly been denied bail without proper reasoning, with many held in pretrial detention, including 11 children, and some reportedly for more than a year;

(d) Article 46 authorizes the Secretary for Justice to decide on cases to be tried by jury; no national security cases have been tried by jury so far (arts. 2 and 14).

36. **Hong Kong, China, should:**

(a) **Pending the repeal of the National Security Law, refrain from applying it, particularly articles 42, 44, 46 and 47;**

(b) **Take all measures necessary to strengthen the independence of the judiciary and protect the judiciary from any form of interference;**

(c) **Respect and protect the right to a fair trial without discrimination based on political opinion or other grounds.**

37. The Committee is concerned about harassment, intimidation and physical attacks faced by lawyers, such as Chow Hang-tung, who request judicial reviews or represent opposition figures or protestors (arts. 7 and 14).

38. **Hong Kong, China, should take the measures necessary to protect lawyers, particularly those who represent opposition figures or protesters and request judicial reviews, from harassment, intimidation and attacks, in accordance with the Basic Principles on the Role of Lawyers. It should also ensure that all such allegations are promptly, independently and thoroughly investigated, that perpetrators are prosecuted and, if found guilty, punished with appropriate sanctions, and that victims have access to effective remedies.**

Right to privacy

39. The Committee is concerned that section 3 (1) (a) of the Interception of Communications and Surveillance (Amendment) Ordinance, article 43 (6) of the National Security Law and schedule 6 of the implementation rules, which facilitate arbitrary intrusion of privacy for the purposes of public security or national security, are not compatible with article 17 of the Covenant. In this context, it is concerned about allegations of unrestricted surveillance carried out at schools and the excessive surveillance and interception of trade unions' data. Noting the statutory powers conferred upon the Office of the Privacy Commissioner for Personal Data under the Personal Data (Privacy) (Amendment) Ordinance 2021 to demand the cessation or restriction of the disclosure of doxing content, the Committee notes with concern that the Office removed 90 per cent of social media posts that reportedly contained doxed information between October 2021 and May 2022 and issued 774 cessation notices, and that six people have been arrested. Regretting the absence of detailed information provided by Hong Kong, China, on the application of the amendments, including the criteria used for cessation, the Committee is concerned about allegations that the amendments were designed to curb freedom of speech and expression on social media and to influence social media platforms. In addition, it is concerned that the digital applications that residents and visitors must download as part of the COVID-19 response allegedly facilitate extensive access to the data stored on devices (arts. 17 and 19).

40. **Hong Kong, China, should:**

(a) **Pending the repeal of the National Security Law, refrain from applying article 43 (6) thereof and schedule 6 of the implementation rules;**

(b) **Take concrete steps to bring the Interception of Communications and Surveillance (Amendment) Ordinance and the Personal Data (Privacy) (Amendment) Ordinance 2021 into line with article 17 of the Covenant;**

(c) **Strengthen the capacity, mandate and powers of the Office of the Privacy Commissioner for Personal Data to carry out independent and effective oversight of surveillance activities and interference with privacy, and ensure access to effective remedies in cases of abuse;**

(d) **Ensure that the data collected through the digital applications used in the context of COVID-19 response are used strictly for specific and legitimate objectives and are deleted when such objectives have been met.**

Freedom of expression

41. The Committee is concerned about the adverse effect of the overly broad interpretation and arbitrary application of the National Security Law and legislation on sedition, and its impact on the exercise of freedom of expression. This includes: (a) the closure of media outlets, in some cases voluntarily for fear of reprisals, raids on their offices and freezing of their assets; (b) the blocking of websites and media accounts and the removal of online content; (c) the arrest and arbitrary detention of journalists, politicians, academics, students and human rights defenders who have expressed dissenting opinions; (d) intimidation, attacks or threat of attacks against journalists; (e) censorship; (f) interference with the editorial independence of public media outlets such as Radio Television Hong Kong; and (g) difficulties in obtaining or renewing visas for foreign journalists, among others. While noting the intention of Hong Kong, China, to prepare a new law regulating disinformation, the Committee notes concerns raised about its potential adverse impact on the enjoyment of freedom of expression given the current environment (arts. 19, 20, 21 and 22).

42. **Hong Kong, China, should: (a) stop applying the National Security Law and legislation on sedition against journalists, politicians, academics, human rights defenders, students and members of the public duly exercising their right to freedom of expression; (b) discontinue all cases against journalists and individuals charged for exercising their right to freedom of expression and provide them with adequate compensation; (c) ensure the editorial independence of all media outlets; and (d) protect journalists from intimidation and attacks and investigate all such cases. It also should ensure transparent, participatory and meaningful consultation with the public and with civil society in preparing the proposed new law relating to disinformation and ensure that the draft is in full compliance with the Covenant.**

43. The Committee is also concerned: (a) that safeguarding of national security has become one of the criteria determining public library collections, and that the Leisure and Cultural Services Department examines whether the content of library material complies with the National Security Law or whether the provision of services related to such material serves the interests of national security; (b) that more than a hundred books have allegedly been withheld from the shelves of public libraries for such reasons; and (c) that the list of library material withdrawn for allegedly breaching the Law or other legislation or for being contrary to the interests of national security has not been published (arts. 19, 20 and 21).

44. **Hong Kong, China, should:**

(a) **Immediately stop censoring books and other material in the public libraries, including school libraries, and reinstate the books and other material that have been removed for allegedly breaching the National Security Law or for being contrary to the interests of national security;**

(b) **Publish a list of the books and materials that have been removed;**

(c) **Take concrete steps necessary to ensure non-recurrence.**

Peaceful assembly

45. While noting the massive number of people who participated in protests between June 2019 and early 2020, the Committee is concerned that Hong Kong, China, has labelled entire assemblies as violent because of isolated cases of violence by some protestors, and consequently treats protestors as rioters. More importantly, it is concerned that such a massive scale of protests may indicate the failure of a participatory governance system in Hong Kong, China (arts. 7, 9, 10, 19, 21 and 25).

46. **Recalling its obligation under article 21 of the Covenant, as elaborated upon in the Committee's general comment No. 37 (2020), Hong Kong, China, should take all the measures necessary to respect and ensure the right of peaceful assembly. It should facilitate assemblies and impose proportionate restrictions only where strictly necessary to achieve one of the permitted goals identified in the Covenant. Furthermore, it should strengthen its governance system with a view to ensuring the free, effective and meaningful participation of its citizens in the conduct of public affairs, including the legal and decision-making process.**

47. The Committee is concerned about the undue restrictions imposed on the exercise of the right of peaceful assembly, including the Public Order Ordinance, which prescribes the de facto authorization system for public assemblies and criminalizes participation in an unauthorized public assembly, and the Prohibition of Face Covering Regulation. It is also concerned that COVID-19 regulations have been invoked to impose undue restrictions on the right of peaceful assembly, through discriminatory application allegedly depending on the purpose of assemblies or organizers. The Committee is further concerned about the excessively high number of arrests, prosecutions and convictions of protesters, particularly between 2019 and 2021 (arts. 4, 7, 9, 10, 19 and 21).

48. **Hong Kong, China, should:**

(a) **Revise the Public Order Ordinance and repeal the Prohibition of Face Covering Regulation, with a view to bringing its legislation on public assembly into line with article 21 of the Covenant and the Committee's general comment No. 37 (2020);**

(b) **Ensure that COVID-19 regulations are applied without exception or discrimination and do not unduly restrict the right of peaceful assembly;**

(c) **Discontinue charges against and release all persons who were arbitrarily arrested and detained in connection with the 2019 protests and with all unauthorized assemblies.**

Freedom of association

49. The Committee is concerned at the excessive number of civil society organizations, including trade unions and student unions, that have relocated or ceased to operate since the enactment of the National Security Law and the invocation of legislation on sedition in 2020. It is also concerned that trade unions have allegedly been targeted following a series of citywide strikes in 2019, through deregistration, the filing of criminal charges against the leadership of trade unions and their increased vulnerability due to their relations with international trade-union organizations. The Committee is also concerned about the excessive powers of the police, provided for in the Societies Ordinance, to refuse or cancel the registration of a society or to prohibit a society, and that such refusal or cancellation is not subject to judicial review on the merits. Furthermore, the Committee notes with concern the delegation's vague response that the National Security Law does not apply to "normal" activities of civil society organizations, without clarifying what constitutes such normal activities, which does not explicitly assure the protection of civil society organizations and their representatives who have engaged with the Committee for the present review from being charged under the National Security Law (arts. 2, 4, 19 and 22).

50. **Hong Kong, China, should:**

(a) **Refrain from taking any action that is likely to curb the exercise of the freedom of association and ensure a safe environment for the activities of civil society organizations, including trade unions and student unions;**

(b) **Remove all the restrictive measures imposed on trade unions and discontinue all cases against trade unionists charged in connection with their union activities;**

(c) **Review the Societies Ordinance and other relevant legislation in order to remove the procedural and substantive obstacles to registering and running a society and to bring them into line with article 22 of the Covenant;**

(d) **Ensure that members and representatives of civil society organizations are not charged under the National Security Law or victimized in any other way as a result of their engagement with the Committee for the present review, with other international human rights mechanisms, including other treaty bodies, the Human Rights Council, the special procedures of the Council and the universal periodic review mechanism, or with international non-governmental organizations.**

Participation in public affairs

51. The Committee acknowledges the commitment of Hong Kong, China, to introducing universal suffrage. However, the Committee is concerned about the non-compliance of the electoral system with the requirements of article 25 of the Covenant, which has further deteriorated since the electoral changes in 2021. The concerns include: (a) the significantly reduced number of seats directly elected by public voters for both the Election Committee and the Legislative Council; (b) the diminishing representativeness of the Election Committee following the changes made to the composition and membership of its sectors and subsectors; (c) the restricted candidate eligibility criteria, which give candidates of opposition parties little or no chance of standing for election; (d) the absence of participation of public voters in electing the Chief Executive; and (e) the vague criteria for and process of disqualification of candidates and elected officials (arts. 2, 3, 25, 26 and 27).

52. **Hong Kong, China, should take concrete steps, with a clear timeline, to introduce universal suffrage. In the meantime, it should reform the electoral system in accordance with article 25 of the Covenant and the Committee's general comment No. 25 (1996), including by: (a) increasing the number of seats directly elected by public voters in the**

Election Committee and the Legislative Council; (b) increasing the number of public voters in the Election Committee; (c) introducing public voting for the election of the Chief Executive; (d) revising candidate eligibility criteria to ensure diversity among candidates; and (e) review the criteria for and process of disqualification, and repeal discriminatory criteria. Furthermore, it should reverse the decision to disqualify elected officials.

D. Dissemination and follow-up

53. **Hong Kong, China, should widely disseminate the Covenant, its fourth periodic report, the written replies to the Committee's list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in Hong Kong, China, and the general public. Hong Kong, China, should ensure that the periodic report and the present concluding observations are translated into its official languages.**

54. **In accordance with rule 75 (1) of the Committee's rules of procedure, Hong Kong, China, is requested to provide, by 28 July 2025, information on the implementation of the recommendations made by the Committee in paragraphs 14 (National Security Law), 42 (freedom of expression) and 50 (freedom of association) above.**

55. **The Committee requests Hong Kong, China, to submit its next periodic report by 27 July 2028 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests Hong Kong, China, in preparing the report, to broadly consult civil society and non-governmental organizations operating there. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.**