

**An outline of the topics to be covered in the third report of the
Hong Kong Special Administrative Region under
the International Covenant on Economic, Social and Cultural Rights**

Introduction

The Government is preparing for the submission of the third report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations (UN) International Covenant on Economic, Social and Cultural Rights (the Covenant). It will form part of the second periodic report of the People's Republic of China under the Covenant.

2. In accordance with the established practice, we have prepared an outline of the report. It sets out the broad subject headings and individual topics that we plan to cover in the report. We invite members of the public to submit their views on the implementation of the Convention in respect of those topics, and to suggest any additional topics that should be included in the report.

3. We will consider carefully all the comments and suggestions that will be received. Any persons or organisations wishing to offer views are invited to send them to the Constitutional and Mainland Affairs Bureau (CMAB) on or before 19 February 2010:

by post: Team 5
Constitutional and Mainland Affairs Bureau
Central Government Offices
3/F., East Wing
Lower Albert Road, Hong Kong

by fax: 2840-0657

by e-mail: icescr_consultation@cmab.gov.hk

4. Submissions will normally be made available to the general public upon request, unless the contributors specifically ask us to keep their views confidential.

5. The text of the Covenant is available on the CMAB website: http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/icescr.doc

6. References to “the previous report” are to the report of the HKSAR submitted by the Central People's Government in June 2003 and heard by the UN Committee on Economic, Social and Cultural Rights (the Committee) in April 2005. A copy of the previous report is available on the CMAB website: http://www.cmab.gov.hk/en/issues/culturalrights_report.htm

7. The report will mainly consist of –

- (a) information / explanations about any significant developments since the submission of the previous report in 2003. Our preliminary views on the areas in which there may have been developments that qualify as “significant” are indicated in the topic headings below. Respondents are welcome to propose additional topics which should be included in the report. In proposing additional topics, respondents should indicate why they consider the issue to be significant and relevant to the application of the Covenant in Hong Kong, and set out the views on the Government's performance in handling the topic;
- (b) updates of developments that were ongoing since the 2005 hearing and in respect of which we undertook to inform the Committee of future progress or outcomes; and
- (c) responses to the concerns and recommendations raised in the Committee's Concluding Observations (the concluding observations) of the previous report (reproduced at the **Annex**).

Part I: General profile of the of the Hong Kong Special Administrative Region (HKSAR)

8. The “general profile” part follows the standard format, form and content as prescribed by the current reporting guidelines of the UN. It contains information of a general and factual nature relating to the implementation of the human right treaties applicable to the HKSAR. Information in the corresponding part of the previous report will also be updated.

Part II: Main Report

9. The part of the report will contain specific information relating to the implementation of Articles 1 to 15 of the Covenant.

Article 1: Progress and development of democracy

10. We will inform the Committee of significant developments relating to constitutional development in the HKSAR since 2003.

Article 2: Progressive realisation of the rights recognised in the Covenant and the exercise of those rights without discrimination

11. We will update the Committee of significant developments in respect of the Article, including -

- Legislation against racial discrimination
- Discrimination on the grounds of sexual orientation and age
- Protection for persons with disabilities
- The Equal Opportunities Commission
- Financial eligibility limit for legal aid
- Human rights institution

12. We will, in particular, respond to paragraph 91 of the Concluding Observations on the legislation on racial discrimination, and also respond to paragraph 92 of the Concluding Observations on HKSAR's position regarding the 1951 Refugees Convention and asylum policy.

Article 3: Equal rights of men and women

13. We will inform the Committee that we will separately prepare HKSAR's third report under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). We will also advise the Committee of developments in respect of -

- CEDAW and Women's Commission
- Review of the Sex Discrimination Ordinance (Chapter 480)
- The "Small House Policy"

Article 4: Permissible limitations of Covenant rights &

Article 5: Prohibition on destruction of any rights and freedoms recognised in the Covenant

14. We will inform the Committee that the position for Article 4 and Article 5 remains as reported in paragraphs 4.1 and 5.1 of the previous report. In short, the HKSAR Government does not subject the rights provided under the Covenant to any limitations other than those provided for in law (Article 4), and the Government imposes no restrictions upon and makes no derogations from any fundamental human rights (Article 5).

Article 6: Choice of occupation and labour rights

15. We will advise the Committee that the position remains largely the same as mentioned in the previous report, and update the Committee on significant developments in respect of -

- International Labour Conventions (ILCs)
- Employment services
- Youth pre-employment training
- Vocational training
- Protection of employees against unreasonable dismissal
- Employment statistics
- Importation of labour
- Right to work: concerns about discrimination

Article 7: Right to enjoy just and favourable conditions of work

16. We will update the Committee on significant developments in respect of –

- List of reports on relevant ILCs
- Statutory Minimum Wage
- Employment protection: employees' rights and benefits
- Imported workers and foreign domestic helpers

- Employment protection for women
- Safe and healthy working conditions
- Prevention of accidents and diseases in the workplace: legal protections

17. In particular, we will address paragraph 93 of the Concluding Observations on the Equal Opportunities Commission's study on equal pay for work of equal value, and follow-up measures, and respond to paragraph 95 of the Concluding Observations on the "two-week rule" and the legal protection and benefits for foreign domestic helpers.

Article 8: Right to trade union membership

18. We will advise the Committee that the position remains largely the same as mentioned in the previous report, and update the Committee on significant developments in respect of -

- The ILCs
- Trade Unions Ordinance (Chapter 332)
- Legislative protection against anti-union discrimination under the Employment Ordinance (Chapter 57)
- Number and membership of trade unions
- Promotion of effective communication, consultation and voluntary negotiation between employers and employees
- The right to strike

Article 9: Right to social security

19. We will advise the Committee of significant developments in respect of –

- The ILCs
- An overview of the social security system in Hong Kong
- Government expenditure on social security
- The Comprehensive Social Security Assistance Scheme (CSSA)

- The Social Security Allowance Scheme
- Protection of wage payment and statutory rights and benefits
- Employees' compensation and compensation for pneumoconiosis
- The Occupational Deafness Compensation Scheme
- Retirement benefits and protection

20. We will respond to paragraphs 94 and 96 of the Concluding Observations on extending the coverage of the social security system to cover unemployed workers by payment of an unemployment benefit, and reviewing the eligibility criteria for the CSSA. We will also respond to paragraph 95 of the Concluding Observations on inclusion of foreign domestic helpers in the Mandatory Provident Fund Scheme.

Article 10: Protection of the family

21. We will update the Committee of developments in respect of –

- The ILCs
- The family
- Definition of “family”
- Family Council
- Welfare services to families
- After school care programme
- Unextended nuclear family households
- Care and support for the elderly
- Family reunification of migrants
- Youth suicide
- New arrivals from the Mainland of China
- Maternity protection

- Protection of children and juveniles
- Commission on Youth
- Employment of children and young persons
- Domestic violence

22. We will, in particular, respond to paragraph 97 of the Concluding Observations on trafficking in persons, especially women and children into the HKSAR, mainly for the purpose of sexual exploitation, and provide information on the result of the study by the Women's Commission on domestic violence.

Article 11: Right to an adequate standard of living

23. We will advise the Committee of significant developments in the following areas –

General

- Economic indicators
- Economic restructuring
- Income distribution

The right to continuous improvement of living condition

- Poverty alleviation

The right to adequate food

- Supply of food

The right to water

- Adequate and affordable access to water
- Conservation of water and protection of water sources

The right to adequate housing

- Housing and planning

24. We will also respond to paragraph 98 of the Concluding Observations on poverty alleviation.

Article 12: The right to health

25. We will advise the Committee of significant developments in respect of –

- Health and healthcare
- Policy
- General health of Hong Kong's population
- Provision of healthcare services
- Traditional Chinese medicine
- Regulation of health care institutions
- Control of communicable diseases
- Prevention and control of HIV/AIDS
- Sexual and reproductive health programme
- Prevention of abuse of alcohol
- Tobacco control
- Combating drug abuse
- Reforming the health care systems
- Food safety
- Services for persons with disabilities
- Services for persons with mental health problems
- Environment and industrial hygiene

26. We will respond to paragraphs 99 and 100 of the Concluding Observations on revision of the subsidized drug list and on sexual and reproductive health programme.

Article 13 and Article 14: Right to education

27. We will advise the Committee of developments in respect of the area of education, including –

- Access to education and educational attainment
- Profile of educational attainment
- Pre-primary education
- Primary and secondary education
- Quality Education Fund
- Language policy - biliteracy and trilingualism
- Medium of instruction
- Post-secondary education
- Higher education
- Adult education
- Qualifications Framework
- Vocational education
- Education for non-Chinese speaking students
- Education for students with disabilities
- Education of prisons inmates
- Education for children with no right to stay
- Education for newly arrived children/young people from the Mainland of China
- Civic education, human rights education and education against discrimination
- Public education on the Basic Law

28. We will respond to paragraphs 101 and 102 of the Concluding Observations regarding right to education of all school-aged children and human rights education.

Article 15: Right to cultural life, scientific progress and its application

29. We will update the Committee on the developments in respect of –

- Policy on culture
- Policy on heritage conservation
- West Kowloon Cultural District
- Hong Kong Arts Development Council
- Hong Kong Academy for Performing Arts
- Hong Kong Arts Centre
- The Leisure and Cultural Services Department
- School and professional education on culture and the arts
- Archives
- Promotion of science and technology
- Protection of intellectual property rights
- Country parks and conservation areas