

WHAT YOU NEED TO KNOW ABOUT THE HONG KONG ICCPR REVIEW

CONTEXT

In July 2022 at the UN Human Rights Council in Geneva, an independent UN expert body—the Human Rights Committee—will review the human rights progress in the Hong Kong Special Administrative Region (HKSAR) under the *International Covenant on Civil and Political Rights* (ICCPR), which applies to Hong Kong. This is the fourth such review of Hong Kong.

Since the enactment of the *National Security Law* in Hong Kong, the severe curtailment of rights and the aggressive targeting of diverse individuals and civil society groups deemed to be “political opponents” by an increasingly authoritarian regime—leading to a rapid and ongoing deterioration of civil society space—heighten the critical importance of holding the Hong Kong SAR government accountable for its human rights violations and its human rights obligations at this juncture. The upcoming review is a crucial opportunity to ensure that the Hong Kong SAR government cannot and does not continue to evade its human rights obligations and international scrutiny.

TIMETABLE OF THE HONG KONG ICCPR REVIEW SESSIONS

Date & Time	Event (public except where otherwise noted)
Thurs, July 7, 2022 10:00am - 12:00pm (CET) 4:00am - 6:00am (EDT)	Consideration of the fourth periodic report of Hong Kong (Interactive Dialogue): Session 1 Webcast: https://media.un.org/index.php/en/asset/k1e/k1e5lbhfee
Fri, July 8, 2022 10:00am - 12:00pm (CET) 4:00am - 6:00am (EDT)	Consideration of the fourth periodic report of Hong Kong (Interactive Dialogue): Session 2 Webcast: https://media.un.org/en/asset/k1l/k1l6t4ifsx
Tues, July 12, 2022 10:00am - 12:00pm (CET) 4:00am - 6:00am (EDT)	Consideration of the fourth periodic report of Hong Kong (Interactive Dialogue): Session 3 Click for webcast link: https://media.un.org/en/asset/k1e/k1ezy3nrgy
Fri, July 22, 2022 11:30am - 1:00pm (CET) 5:30am - 7:00am (EDT)	Adoption of concluding observations on Hong Kong (closed event)

FREQUENTLY ASKED QUESTIONS

1 WHAT IS THE ICCPR?

The ICCPR is a key UN human rights treaty that enshrines many foundational human rights, including equality before the law (Article 14); the right to freedom of thought (Article 18); the right to hold opinion and to freedom of expression (Article 19); the right to peaceful assembly (Article 21); freedom of association (Article 22); and the right to participate in public affairs—to vote and be elected (Article 25). As of June 2022, 173 states have ratified the ICCPR. China signed the ICCPR in 1998 but has not ratified it. (A State party's signature "creates an obligation to refrain in good faith from acts that would defeat the object and purpose of the treaty." See:

<https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet30Rev1.pdf>.)



2 WHAT IS THE PURPOSE AND PROCESS OF THE ICCPR REVIEW?

As the UN treaty body responsible for monitoring State parties' compliance with the ICCPR, the Human Rights Committee meets three times a year for sessions each lasting three weeks during which time select State parties are invited to present their reports on how the rights protected under the Covenant are being implemented. Each review cycle (commonly referred to as a "Periodic Review") takes approximately four years and consists of five main steps:



1

Submission of State report:

Each State party submits a report on its implementation of the ICCPR upon request by the Committee. This generally occurs at a four-year interval. (Following the submission of the State party report, civil society groups can make submissions to the Committee raising their issues of concern.)

2

Adoption of a List of Issues

Once a State party report has been submitted, the Committee sends a "List of Issues" (LOIs) highlighting issues of concern to the relevant state government to address. A List of Issues is commonly issued at least two sessions (i.e., one year) before a formal review takes place. (Civil society groups can submit their reports listing their issues of concern to the Committee as input into the LOIs before its adoption. State parties are expected to submit written responses to the LOIs.)

3

Interactive Dialogue (also called Consideration of the periodic report of the State party)

The Committee meets with State party representatives in an Interactive Dialogue at the Human Rights Council in Geneva. The Committee will commonly question State party representatives on issues raised in its List of Issues and in civil society reports, to which the State party's representatives are expected to answer.

4

Adoption of Concluding Observations

Following the Interactive Dialogue, the Committee issues its concluding observations and recommendations for steps to be taken by the State party.

Follow-up

Following the Adoption of Concluding Observations, the Committee may designate a follow-up rapporteur and identify select issues and recommendations for a follow-up process during which the State parties are requested to provide information on implementation of these recommendations. The Committee reviews information provided by the State party and civil society organizations and, according to past practice, assigns a grade (from A to E) depending on its assessment of the adequacy of implementation.

3 WHY IS HONG KONG SUBJECT TO THE ICCPR REVIEW?

The United Kingdom ratified the ICCPR in 1976 when Hong Kong was still a British colony. The ICCPR continues to apply to Hong Kong after the transfer of its sovereignty in 1997 to the People's Republic of China through at least three legal instruments. Accordingly, the ICCPR, including all reporting obligations stipulated within, is fully applicable to Hong Kong.

The Sino-British Joint Declaration of 1984, an

international treaty, states that the "laws currently in force in Hong Kong will remain basically unchanged."

The Hong Kong Bill of Rights Ordinance of 1991

was specifically enacted "to provide for the incorporation into the law of Hong Kong of provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong."

Article 39 of the Hong Kong Basic Law

, the constitution of the HKSAR, which took effect on July 1, 1997, states that "[t]he provisions of the International Covenant on Civil and Political Rights . . . as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region."

4 WHAT IS THE CURRENT STATUS OF THE HONG KONG REVIEW?

The current review is Hong Kong's Fourth Periodic Review. Below is a brief timeline of key milestones:

February 14, 2020	The Hong Kong SAR government submitted its Fourth Periodic Report.
August 26, 2020	The Committee issued its List of Issues in relation to Hong Kong's Fourth Periodic Report.
September 28, 2021	The Hong Kong SAR government submitted its Replies to the List of Issues.
July 7, 8 & 12, 2022	The Committee's Consideration of Hong Kong's Fourth Periodic Report will take place on July 7, 8, and 12, 2022 (for details see "TIMETABLE OF THE HONG KONG ICCPR REVIEW SESSIONS" above).

5 WHY IS THIS REVIEW OF HONG KONG OF PARTICULAR IMPORTANCE?

Since the conclusion of Hong Kong's Third Periodic Review cycle in 2016, and, in particular, since the enactment of the *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region* (NSL) in June 2020 that quelled the 2019-2020 anti-extradition protest

movement, Hong Kong has seen an unprecedented deterioration of fundamental rights and freedoms. In the name of “safeguarding national security,” government measures that have seriously undermined and continue to undermine fundamental civil and political rights and freedoms include: the banning of expression of political dissent, ongoing mass arrests and prosecution of pro-democracy activists under the NSL, postponement of legislative elections, revamping of the election system to permit only “patriots” to stand for office, and tightening of restrictions on the media. Reports indicate that in the past three years alone, Hong Kong has imprisoned approximately 1,014 political prisoners, three quarters of whom are under the age of 30. (See Hong Kong Democracy Council, “Hong Kong Reaches a Grim Milestone: 1,000 Political Prisoners,” May 2022, <https://hkdc.us/wp-content/uploads/2022/05/HKDC-political-prisoners-report-updated.pdf>.)

Since the announcement and then implementation of the NSL, UN experts have repeatedly raised extensive concerns regarding its incompatibility with international human rights standards and norms, including those enshrined in the ICCPR. This Fourth Periodic Review takes place amid the Hong Kong government’s rapid systematic dismantling of civil and political rights and in the context of a historically dismal record of demonstrated lack of political will, cooperation, and meaningful implementation efforts by Hong Kong to address the concerns of the Committee, UN experts, legal experts, and other key stakeholders.

6 CAN CIVIL SOCIETY PLAY A ROLE IN THE ICCPR REVIEW PROCESS? HOW?

Yes. Civil society plays a critical role throughout each review cycle. Below are specific opportunities for civil society organizations to contribute to the ICCPR review process, including providing accurate up-to date information, monitoring the Interactive Dialogue and the review outcome, and promoting greater transparency and accountability of the government.

Make a written civil society submission to the Committee raising issues of concern and providing recommendations as input into the List of Issues (LOIs) it will adopt and send to the State party. For the Fourth Review of the Hong Kong government, 15 civil society organizations and one individual made submissions.

(See the “Info from Civil Society Organizations (for LOIs)” section on this page:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2572&Lang=en.)

Make a written civil society submission to the Committee in advance of its Interactive Dialogue with the State party, addressing concerns raised by the State party’s responses to the Committee’s LOIs, and providing additional information on the progress or lack thereof in the State party’s implementation of ICCPR since the last review or in the submission of the State party’s reply to the Committee’s LOIs. For the Fourth Review of the HKG, 21 civil society groups made 20 submissions.

(See the “Info from Civil Society Organizations (for the session)” section on this page:
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2572&Lang=en.)

Provide additional information to the Committee during the review process.

Attend the Interactive Dialogue in person or watch it remotely (on UN Web TV) and disseminate information about the exchange between the Committee and the State party’s representatives. (All Interactive Dialogue sessions are open to the public and webcast. Please see above for further details. In addition to official UN channels, you can also follow key developments through HRIC’s social media channels, including Twitter and Facebook.)

Disseminate information on the Concluding Observations issued by the Committee following the Interactive Dialogue, which will also include recommendations to the State party on steps to take to improve its implementation of its ICCPR obligations.

Monitor the progress of the Follow-up process.

(For further details and technical aspects of civil society participation, see the “How Can Civil Society Engage” section of “The Human Rights Committee: A Summary for Civil Society Groups” by International Service for Human Rights, https://ishr.ch/wpcontent/uploads/2022/05/THE_HUMAN_RIGHTS_COMMITTEE_EN.pdf.)

Yes. On May 31, 2020, HRIC made a civil society submission on Hong Kong to the Committee as input into its List of Issues. HRIC's submission focused primarily on the rule of law issues presented by the then-pending national security legislation and actions by the Chinese and Hong Kong governments. On May 30, 2022, HRIC made another submission in advance of the upcoming formal review sessions, providing information on ongoing developments in Hong Kong.



8 WHAT ARE THE COMMITTEE'S AND HRIC'S KEY CONCERNS WITH REGARDS TO HONG KONG'S IMPLEMENTATION OF THE ICCPR?

The List of Issues issued by the Committee in August 2020 reiterated the Committee's long-standing concerns regarding forced labor and human trafficking practices in Hong Kong, weaknesses in Hong Kong's anti-discrimination laws, and the need for Hong Kong to establish an independent national human rights institution. In addition to these issues—none of which had been adequately addressed by the Hong Kong government previously—the Committee also focused heavily on **urgent human rights concerns which have arisen pursuant to Hong Kong's handling of the 2019-2020 protests and subsequent implementation of the NSL**. These concerns notably include:



The **incompatibility of the NSL with ICCPR protections**, including the NSL's ambiguous definitions of "secession," "subversion," and "terrorist activities," and its extraterritorial and retrospective application.



Excessive use of force by Hong Kong police and related issues of accountability.



Threats to freedom of expression, including reports of increased self-censorship and intensified pressure exerted on journalists, academics, students, politicians, and human rights defenders.



Threats to the right to peaceful assembly, including mass arbitrary arrests that target protestors and pro-democracy figures.

In addition to the issues identified by the Committee and raised by HRIC and many other civil society organizations, HRIC raised additional overarching concerns in its submissions regarding the Hong Kong government's historic and **continued lack of engagement with the Committee**. In particular, HRIC notes the Hong Kong government's consistent invocation of formal law and official state narrative in its Replies to the List of Issues to **sidestep its obligation to respond to and constructively address the Committee's concerns and recommendations**.

9 WHAT ARE HRIC'S KEY RECOMMENDATIONS?

With a view to contributing to a robust, meaningful review and strengthening State party engagement and cooperation with the Committee, HRIC's key recommendations advanced in its submission to the Committee are as follows:



Support measures to ensure that civil society participation in the review process is inclusive, diverse, and safe.



Continue to raise concerns and press for more meaningful cooperation by the Hong Kong government and concrete implementation measures, including in a follow-up process after the issuance of the Concluding Observations and Recommendations by the Committee.



Urge the Central People's Government to initiate a legislative exercise to review and amend the NSL to address the substantive and implementation concerns raised by the Committee, legal experts, civil society, and other concerned stakeholders.



Urge the Hong Kong government to ensure full transparency and procedural adequacy of any future Article 23 legislative exercise (see our separate Article 23 FAQs for further details).

Finally, in this time of deep social and political crisis in Hong Kong, unless there is a sharp turn towards constructive engagement by the Hong Kong government, the Committee **needs to apply a concrete indicator of the State party's progress and a benchmark to incentivize compliance with the Covenant. Continued blatant failure on the Hong Kong government's part to meaningfully address challenges and adopt concrete measures to comply with its obligations under the ICCPR should be reflected in the Committee's final assessment.**

OTHER USEFUL RESOURCES

- International Covenant on Civil and Political Rights: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- Human Rights Committee website: <http://www2.ohchr.org/english/bodies/hrc/>
- Fourth Periodic Report of the Hong Kong Special Administrative Region: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2572&Lang=en
- Human Rights Committee, "List of issues in relation to the fourth periodic report of Hong Kong, China," August 6, 2020: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2572&Lang=en
- Replies of Hong Kong, China to the list of issues in relation to its fourth periodic report, March 26, 2021: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2572&Lang=en
- HRIC Submission for the List of Issues, May 31, 2020: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HKG/INT_CCPR_ICO_HKG_42251_E.pdf
- HRIC Submission in advance of the Fourth Periodic Review, May 30, 2022: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HKG/INT_CCPR_CSS_HKG_48791_E.pdf
- Human Rights in China's Hong Kong Program Work webpage: <https://www.hrichina.org/en/hong-kong-program-work>
- Carole J. Petersen, "Hong Kong's Rights Reckoning: What We Can Expect from the UN Human Rights Committee," USALI Perspectives, June 9, 2022: <https://usali.org/usali-perspectives-blog/hong-kongs-rights-reckoning>
- International Service for Human Rights, "The Human Rights Committee: A Summary for Civil Society Groups": https://ishr.ch/wp-content/uploads/2022/05/THE_HUMAN_RIGHTS_COMMITTEE_EN.pdf

For further information, please contact our Communications Director, Mi Ling Tsui at miiling.tsui@hrichina.org.



www.hrichina.org
[Facebook.com/hrichina](https://www.facebook.com/hrichina)
[Twitter: Twitter.com/hrichina](https://twitter.com/hrichina)
[Youtube.com/hrichina](https://www.youtube.com/hrichina)
hric-newsbrief.blogspot.com