

(Extract of the relevant articles which contain the references
to "public order (*ordre public*)")

**INTERNATIONAL COVENANT
ON CIVIL AND POLITICAL RIGHTS**

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 2200A (XXI) of 16 December 1966**

ENTRY INTO FORCE: 23 March 1976, in accordance with Article 49

X X X X X

PART III

X X X X X

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.

X X X X X

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.

X X X X X

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.

X X X X X

Article 21

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 22

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 Organize 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.

X X X X X

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."

"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."