

《香港人權法案條例》
(第 383 章)
Hong Kong Bill of Rights Ordinance
(Cap. 383)

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尚未實施的條文 / 修訂 ——

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<http://www.elegislation.gov.hk>) 閱覽。

Provisions / Amendments not yet in operation —

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制定史

本為 1991 年第 59 號 —— 1995 年第 68 號，1997 年第 80 號，1997 年第 107 號，1997 年第 126 號，1997 年第 498 號法律公告，1998 年第 48 號法律公告，1998 年第 2 號，1998 年第 315 號法律公告，1999 年第 34 號，2003 年第 1 號，2017 年第 1 號編輯修訂紀錄

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《香港人權法案條例》

(第 383 章)

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Hong Kong Bill of Rights Ordinance

(Cap. 383)

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第 I 部
第 1 條

Part I
Section 1

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本條例將《公民權利和政治權利國際公約》中適用於香港的規定收納入香港法律，並對附帶及有關連的事項作出規定。

An Ordinance 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; and for ancillary and connected matters.

[1991 年 6 月 8 日]

[8 June 1991]

(格式變更——2017 年第 1 號編輯修訂紀錄)

(Format changes—E.R. 1 of 2017)

(略去制定語式條文——2017 年第 1 號編輯修訂紀錄)

(Enacting provision omitted—E.R. 1 of 2017)

第 I 部

Part I

導言

Preliminary

1. 簡稱

1. Short title

(編輯修訂——2017 年第 1 號編輯修訂紀錄)

(Amended E.R. 1 of 2017)

- (1) 本條例可引稱為《香港人權法案條例》。
- (2) (已失時效而略去——2017 年第 1 號編輯修訂紀錄)

- (1) This Ordinance may be cited as the Hong Kong Bill of Rights Ordinance.
- (2) (Omitted as spent—E.R. 1 of 2017)

2. 釋義

2. Interpretation

- (1) 在本條例中，除文意另有所指外——
人權法案 (Bill of Rights) 指在第 II 部列出的香港人權法案；
生效日期 (commencement date) 指本條例的實施日期；
先前法例 (pre-existing legislation) 指在生效日期前制定的法例；
法例 (legislation) 指可藉條例修訂的法例。
- (2) 人權法案受第 III 部規限。
- (3) (# 不採用為香港特別行政區法律)

- (1) In this Ordinance, unless the context otherwise requires—
article means an article of the Bill of Rights;
Bill of Rights (人權法案) means the Hong Kong Bill of Rights set out in Part II;
commencement date (生效日期) means the date on which this Ordinance comes into operation;
legislation (法例) means legislation that can be amended by an Ordinance;

- (4) 本條例不得解釋為政府或任何主管當局、團體或個人有權從事活動或實行行為，破壞人權法案確認之任何一種權利與自由，或限制此種權利與自由逾越人權法案規定之程度。 [比照《公民權利和政治權利國際公約》第五・一條]
- (5) 香港境內依法律、公約、條例或習俗而承認或存在之任何基本人權，不得藉口人權法案未予確認或確認之範圍較狹，而加以限制或減免義務。 [比照《公民權利和政治權利國際公約》第五・二條]
- (6) 人權法案中每一條的標題並無立法效力，亦不在任何方面更改、限制或擴展該條的含義。
- (7) 凡在本條例中提述《公民權利和政治權利國際公約》，即提述已交存聯合國檔庫的《公民及政治權利國際盟約》文件。

編輯附註：

[#] 見《全國人民代表大會常務委員會關於根據〈中華人民共和國香港特別行政區基本法〉第一百六十條處理香港原有法律的決定》(「電子版香港法例」(<http://www.elegislation.gov.hk>) 文件 A206)。

3. 對先前法例的影響

- (1)-(2) ([#] 不採用為香港特別行政區法律)
- (3)-(4) (由 1998 年第 2 號第 2 條廢除)

編輯附註：

pre-existing legislation (先前法例) means legislation enacted before the commencement date.

- (2) The Bill of Rights is subject to Part III.
- (3) ([#]Not adopted as the Laws of the HKSAR)
- (4) Nothing in this Ordinance shall be interpreted as implying for the Government or any authority, 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 in the Bill of Rights or at their limitation to a greater extent than is provided for in the Bill. [cf. ICCPR Art. 5.1]
- (5) There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in Hong Kong pursuant to law, conventions, regulations or custom on the pretext that the Bill of Rights does not recognize such rights or that it recognizes them to a lesser extent. [cf. ICCPR Art. 5.2]
- (6) A heading to any article does not have any legislative effect and does not in any way vary, limit or extend the meaning of the article.

Editorial Note:

[#] See Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Instrument A206 in Hong Kong e-legislation (<http://www.elegislation.gov.hk>)).

3. Effect on pre-existing legislation

- (1)-(2) ([#]Not adopted as the Laws of the HKSAR)
- (3)-(4) (Repealed 2 of 1998 s. 2)

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[#] 見《全國人民代表大會常務委員會關於根據〈中華人民共和國香港特別行政區基本法〉第一百六十條處理香港原有法律的決定》(「電子版香港法例」(<http://www.elegislation.gov.hk>) 文件 A206)。

4. (不採用為香港特別行政區法律)

編輯附註：

見《全國人民代表大會常務委員會關於根據〈中華人民共和國香港特別行政區基本法〉第一百六十條處理香港原有法律的決定》(「電子版香港法例」(<http://www.elegislation.gov.hk>) 文件 A206)。

5. 緊急狀態

- (1) 如經當局正式宣布緊急狀態，而該緊急狀態危及國本，得在此種危急情勢絕對必要之限度內，採取減免履行人權法案的措施，但採取此等措施，必須按照法律而行。
- (2) 根據第 (1) 款採取之措施不得——
 - (a) 抵觸依國際法所負並適用於香港之義務，但依《公民權利和政治權利國際公約》所負之義務除外；
 - (b) 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；或
 - (c) 減免履行人權法案第二、三、四(一)及(二)、七、十二、十三及十五條之規定。

[比照《公民權利和政治權利國際公約》第四條]

6. 人權法案遭違反時的補救

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[#] See Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Instrument A206 in Hong Kong e-legislation (<http://www.elegislation.gov.hk>)).

4. (Not adopted as the Laws of the HKSAR)

Editorial Note:

See Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Instrument A206 in Hong Kong e-legislation (<http://www.elegislation.gov.hk>)).

5. Public emergencies

- (1) In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, measures may be taken derogating from the Bill of Rights to the extent strictly required by the exigencies of the situation, but these measures shall be taken in accordance with law.
- (2) No measure shall be taken under subsection (1) that—
 - (a) is inconsistent with any obligation under international law that applies to Hong Kong (other than an obligation under the International Covenant on Civil and Political Rights);
 - (b) involves discrimination solely on the ground of race, colour, sex, language, religion or social origin; or
 - (c) derogates from articles 2, 3, 4(1) and (2), 7, 12, 13 and 15.

[cf. ICCPR Art. 4]

6. Remedies for contravention of Bill of Rights

(1) 法院或審裁處 ——

- (a) 在就觸犯本條例的事件而採取的法律行動所引起的訴訟中，而該訴訟是屬其司法管轄權範圍內者；及
- (b) 在涉及違反或威脅違反人權法案的事件而屬其司法管轄權範圍內的其他訴訟中，

可就該項觸犯、違反或威脅違反事件，頒發它有權在該等訴訟中頒發而認為在該情況下屬適當及公正的補救、濟助或命令。

- (2) 任何訴訟，不得以它是與人權法案有關為理由而被裁定是超出任何法院或審裁處的司法管轄權範圍。

7. 本條例的約束力

(1) 本條例只對以下各方面具有約束力 ——

- (a) 政府及所有公共主管當局；及
- (b) 代表政府或公共主管當局行事的任何人。

(2) 在本條中 ——

人 (person) 包括團體，不論其是否法團組織。（由 1995 年第 68 號第 2 條修訂）

(1) A court or tribunal—

- (a) in proceedings within its jurisdiction in an action for breach of this Ordinance; and
- (b) in other proceedings within its jurisdiction in which a violation or threatened violation of the Bill of Rights is relevant,

may grant such remedy or relief, or make such order, in respect of such a breach, violation or threatened violation as it has power to grant or make in those proceedings and as it considers appropriate and just in the circumstances.

- (2) No proceedings shall be held to be outside the jurisdiction of any court or tribunal on the ground that they relate to the Bill of Rights.

7. Binding effect of Ordinance

(1) This Ordinance binds only—

- (a) the Government and all public authorities; and
- (b) any person acting on behalf of the Government or a public authority.

(2) In this section—

person (人) includes any body of persons, corporate or unincorporate.

第 II 部

香港人權法案

8. 香港人權法案

香港人權法案如下所列。

第一條

享受權利不分區別

- (一) 人人得享受人權法案所確認之權利，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。
- (二) 人權法案所載一切公民及政治權利之享受，男女權利，一律平等。

[比照《公民權利和政治權利國際公約》第二及三條]

第二條

生存的權利

- (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) 非犯情節最重大之罪，且依照犯罪時有效並與人權法案規定及《防止及懲治殘害人群罪公約》不抵觸之法律，不得科處死刑。死刑非依管轄法院終局判決，不得執行。

Part II

The Hong Kong Bill of Rights

8. Hong Kong Bill of Rights

The Hong Kong Bill of Rights is as follows.

Article 1

Entitlement to rights without distinction

- (1) The rights recognized in this Bill of Rights shall be enjoyed 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) Men and women shall have an equal right to the enjoyment of all civil and political rights set forth in this Bill of Rights.

[cf. ICCPR Arts. 2 & 3]

Article 2

Right to life

- (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) Sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the

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第 8 條

- (三) 生命之剝奪構成殘害人群罪時，不得認為本條授權以任何方式減免依《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18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) 不得援引本條，而延緩或阻止在香港廢除死刑。

[比照《公民權利和政治權利國際公約》第六條]

第三條

不得施以酷刑或不人道處遇亦不得未經同意而施以試驗

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。

[比照《公民權利和政治權利國際公約》第七條]

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- commission of the crime and not contrary to the provisions of this Bill of Rights 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 judgment rendered by a competent court.
- (3) When deprivation of life constitutes the crime of genocide, nothing in this article shall authorize the derogation 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 18 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 in Hong Kong.

[cf. ICCPR Art. 6]

Article 3

No torture or inhuman treatment and no experimentation without consent

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.

*[cf. ICCPR Art. 7]***第四條****不得使充奴隸或奴工**

- (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)(甲) 任何人不得使服強迫或強制之勞役。
- (乙) 本項所稱“強迫或強制勞役”不包括下列各項——
- (i) 經法院依法命令拘禁之人，或在此種拘禁假釋期間之人，通常必須擔任之工作或服役；
 - (ii) 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情況下，依法對此種人徵服之國民服役；
 - (iii) 遇有緊急危難或災害禍患危及社會生命安寧時徵召之服役；
 - (iv) 為正常公民義務一部分之工作或服役。

*[比照《公民權利和政治權利國際公約》第八條]***Article 4****No slavery or servitude**

- (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) For the purpose of this paragraph the term “forced or compulsory labour” shall not include—
 - (i) any work or service 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, 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.

[cf. ICCPR Art. 8]

第五條**人身自由和安全**

- (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羈押，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。

[比照《公民權利和政治權利國際公約》第九條]

Article 5**Liberty and security of person**

- (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 judgment.
- (4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that 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.

[cf. ICCPR Art. 9]

第六條**被剝奪自由的人的權利**

- (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)(甲) 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。
- (乙) 少年被告應與成年被告分別羈押，並應儘速即予判決。
- (三) 監獄制度所定監犯之處遇，應以使其悔過自新、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。

[比照《公民權利和政治權利國際公約》第十條]

第七條**不得因違約而被監禁**

任何人不得僅因無力履行契約義務，即予監禁。

[比照《公民權利和政治權利國際公約》第十一條]

Article 6**Rights of persons deprived of their liberty**

- (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.

[cf. ICCPR Art. 10]

Article 7**No imprisonment for breach of contract**

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

[cf. ICCPR Art. 11]

第八條**遷徙往來的自由**

- (一) 合法處在香港境內的人，在香港境內有遷徙往來之自由及擇居之自由。
- (二) 人人應有自由離去香港。
- (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、公共衛生或風化、或他人權利與自由所必要，且與人權法案所確認之其他權利不抵觸之限制，不在此限。
- (四) 具有香港居留權的人進入香港之權，不得無理褫奪。

[比照《公民權利和政治權利國際公約》第十二條]

第九條**驅逐出香港的限制**

合法處在香港境內但沒有香港居留權的人，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。

[比照《公民權利和政治權利國際公約》第十三條]

Article 8**Liberty of movement**

- (1) Everyone lawfully within Hong Kong shall, within Hong Kong, have the right to liberty of movement and freedom to choose his residence.
- (2) Everyone shall be free to leave Hong Kong.
- (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 this Bill of Rights.
- (4) No one who has the right of abode in Hong Kong shall be arbitrarily deprived of the right to enter Hong Kong.

[cf. ICCPR Art. 12]

Article 9**Restrictions on expulsion from Hong Kong**

A person who does not have the right of abode in Hong Kong but who is lawfully in Hong Kong 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.

*[cf. ICCPR Art. 13]***第十條****在法院前平等及接受公正公開審問的權利**

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。

[比照《公民權利和政治權利國際公約》第十四・一條]

第十一條**被控告或判定犯有刑事罪的人的權利**

- (一) 受刑事控告之人，未經依法確定有罪以前，應假定其無罪。
- (二) 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——

Article 10**Equality before courts and right to fair and public hearing**

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 judgment 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.

*[cf. ICCPR Art. 14.1]***Article 11****Rights of persons charged with or convicted of criminal offence**

- (1) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

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- (甲) 迅即以其通曉之語言，詳細告知被控罪名及案由；
- (乙) 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；
- (丙) 立即受審，不得無故稽延；
- (丁) 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；
- (戊) 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；
- (己) 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；
- (庚) 不得強迫被告自供或認罪。
- (三) 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。
- (四) 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。
- (五) 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。
- (六) 任何人依香港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。

[比照《公民權利和政治權利國際公約》第十四，二至七條]

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- (2) 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.
- (3) 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.
- (4) Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

- (5) 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.
- (6) 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 Hong Kong.

[cf. ICCPR Art. 14.2 to 7]

第十二條

刑事罪及刑罰沒有追溯力

- (一) 任何人之行為或不行為，於發生當時依香港法律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。

[比照《公民權利和政治權利國際公約》第十五條]

Article 12

No retrospective criminal offences or penalties

- (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 Hong Kong 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 a 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.

[cf. ICCPR Art. 15]

第十三條

被承認為法律人格的權利

人人在任何所在有被承認為法律人格之權利。

[比照《公民權利和政治權利國際公約》第十六條]

第十四條

對私生活、家庭、住宅、通信、名譽及信用的保護

- (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。

[比照《公民權利和政治權利國際公約》第十七條]

第十五條

思想、信念及宗教自由

Article 13

Right to recognition as person before law

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

[cf. ICCPR Art. 16]

Article 14

Protection of privacy, family, home, correspondence, honour and reputation

- (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.

[cf. ICCPR Art. 17]

Article 15

Freedom of thought, conscience and religion

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- (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、衛生或風化或他人之基本權利自由所必要者為限。
- (四) 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，得受尊重。

[比照《公民權利和政治權利國際公約》第十八條]

- (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 liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions shall be respected.

[cf. ICCPR Art. 18]

第十六條

意見和發表的自由

- (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——
 - (甲) 尊重他人權利或名譽；或

Article 16

Freedom of opinion and expression

- (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

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(乙) 保障國家安全或公共秩序，或公共衛生或風化。
[比照《公民權利和政治權利國際公約》第十九條]

第十七條

和平集會的權利

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寧、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。
[比照《公民權利和政治權利國際公約》第二十一條]

第十八條

結社的自由

- (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寧、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。

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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; or
- (b) for the protection of national security or of public order (ordre public), or of public health or morals.

[cf. ICCPR Art. 19]

Article 17

Right of peaceful assembly

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.

[cf. ICCPR Art. 21]

Article 18

Freedom of association

- (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

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- (三) 本條並不授權採取立法措施或應用法律，妨礙《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》中適用於香港的規定所規定之保證。

[比照《公民權利和政治權利國際公約》第二十二條]

第十九條

關於結婚和家庭的權利

- (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) 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。

[比照《公民權利和政治權利國際公約》第二十三條]

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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 authorizes legislative measures to be taken which would prejudice, or the law to be applied in such a manner as to prejudice, the guarantees provided for in the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize as it applies to Hong Kong.

[cf. ICCPR Art. 22]

Article 19

Rights in respect of marriage and family

- (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) Spouses shall have equal rights and responsibilities 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.

[cf. ICCPR Art. 23]

第二十條**兒童的權利**

- (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。

[比照《公民權利和政治權利國際公約》第二十四條]

第二十一條**參與公眾生活的權利**

凡屬永久性居民，無分人權法案第一(一)條所列之任何區別，不受無理限制，均應有權利及機會——

- (甲) 直接或經由自由選擇之代表參與政事；
- (乙) 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；
- (丙) 以一般平等之條件，服香港公職。

[比照《公民權利和政治權利國際公約》第二十五條]

Article 20**Rights of children**

- (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.

[cf. ICCPR Art. 24]

Article 21**Right to participate in public life**

Every permanent resident shall have the right and the opportunity, without any of the distinctions mentioned in article 1(1) 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 Hong Kong.

[cf. ICCPR Art. 25]

第二十二條**在法律前平等及受法律平等保護**

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。

[比照《公民權利和政治權利國際公約》第二十六條]

第二十三條**少數人的權利**

屬於種族、宗教或語言少數團體之人，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。

[比照《公民權利和政治權利國際公約》第二十七條]

Article 22**Equality before and equal protection of law**

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.

[cf. ICCPR Art. 26]

Article 23**Rights of minorities**

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.

[cf. ICCPR Art. 27]

第 III 部

例外及保留條文

9. 武裝部隊及拘禁在懲治機構內的人

負責香港外交事務的政府的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，受到為維持部隊紀律及囚禁紀律而不時由法律批准施加的限制所規限。

10. 受拘禁的少年

凡在任何時候缺乏適當的監獄設施，或凡成年人與少年混合拘禁互相有利，則人權法案第六(二)(乙)及(三)條並不要求被拘禁的少年與成年人分開收押。

11. 出入境法例

對於無權進入及停留於香港的人來說，本條例不影響管限這些人進入、逗留於及離開香港的出入境法例，亦不影響這些法例的適用。

12. 沒有居留權的人

人權法案第九條並不賦予沒有香港居留權的人就驅逐他出境的判定要求覆判的權利，亦不賦予他為此目的而委託代理人向主管當局到場申訴的權利。

13. 行政會議及立法會

人權法案第二十一條並不要求在香港設立由選舉產生的行政

Part III

Exceptions and Savings

9. Armed forces and persons detained in penal establishments

Members of and persons serving with the armed forces of the government responsible for the foreign affairs of Hong Kong and persons lawfully detained in penal establishments of whatever character are subject to such restrictions as may from time to time be authorized by law for the preservation of service and custodial discipline.

10. Juveniles under detention

Where at any time there is a lack of suitable prison facilities or where the mixing of adults and juveniles is mutually beneficial, article 6(2)(b) and (3) does not require juveniles who are detained to be accommodated separately from adults.

11. Immigration legislation

As regards persons not having the right to enter and remain in Hong Kong, this Ordinance does not affect any immigration legislation governing entry into, stay in and departure from Hong Kong, or the application of any such legislation.

12. Persons not having the right of abode

Article 9 does not confer a right of review in respect of a decision to deport a person not having the right of abode in Hong Kong or a right to be represented for this purpose before the competent authority.

13. Executive and Legislative Councils

Article 21 does not require the establishment of an elected

會議或立法會。

(由 1999 年第 34 號第 3 條修訂)

14. 暫時的保留條文

- (1) 自生效日期起計的 1 年期間內，本條例受附表所列的條例規限。
- (2) 根據或憑藉附表所列任何條例而 ——
 - (a) 作出的任何行為 (包括在行使酌情決定權時作出的行為)；或
 - (b) 授權或規定的任何不行為，或在行使酌情決定權時發生的任何不行為，若是在生效日期 1 週年之前發生，不受本條例影響。
- (3) 在生效日期 1 週年之前，立法局可為以下所有目的或以下任何目的而藉決議修訂本條 ——
 - (a) 規定自生效日期 1 週年起計的 1 年期間內，本條例受該局修訂中所指明列於附表內的條例規限；
 - (b) 規定根據或憑藉立法局修訂中所指明列於附表內的任何條例而 ——
 - (i) 作出的任何行為 (包括在行使酌情決定權時作出的行為)；或
 - (ii) 授權或規定的任何不行為，或在行使酌情決定權時發生的任何不行為，若是在生效日期 2 週年之前發生，不受本條例影響；及
 - (c) 廢除本款。

Executive or Legislative Council in Hong Kong.

14. Temporary savings

- (1) For a period of 1 year beginning on the commencement date, this Ordinance is subject to the Ordinances listed in the Schedule.
- (2) This Ordinance does not affect—
 - (a) any act done (including any act done in the exercise of a discretion); or
 - (b) any omission authorized or required, or occurring in the exercise of a discretion,before the first anniversary of the commencement date, under or by any Ordinance listed in the Schedule.
- (3) The Legislative Council may before the first anniversary of the commencement date by resolution amend this section for all or any of the following purposes—
 - (a) to provide that, for a period of 1 year beginning on the first anniversary of the commencement date, this Ordinance is subject to such of the Ordinances listed in the Schedule as are specified in the amendment;
 - (b) to provide that this Ordinance does not affect—
 - (i) any act done (including any act done in the exercise of a discretion); or
 - (ii) any omission authorized or required, or occurring in the exercise of a discretion,before the second anniversary of the commencement date, under or by any Ordinance listed in the Schedule that is specified in the amendment; and
 - (c) to repeal this subsection.

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第 383 章

第 III 部

第 14 條

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- (4) 在本條中，提述某條例時，包括提述根據該條例訂立的任何附屬法例。
- (5) 雖有第 3 條的規定，本條仍然實施。
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Part III

Section 14

3-6

Cap. 383

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- (4) In this section, a reference to an Ordinance includes a reference to any subsidiary legislation made under that Ordinance.
- (5) This section operates notwithstanding section 3.
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第 383 章

附表

Schedule

S-2

Cap. 383

附表

[第 14 條]

第 14(1) 及 (2) 條適用的條文

《入境條例》(第 115 章) (由 1997 年第 80 號第 103(1) 條修訂)

《社團條例》(第 151 章)

《刑事罪行條例》(第 200 章)

《防止賄賂條例》(第 201 章)

《廉政公署條例》(第 204 章) (由 2003 年第 1 號第 3 條修訂)

《警隊條例》(第 232 章) (由 1998 年第 315 號法律公告修訂)

Schedule

[s. 14]

Provisions to which Section 14(1) and (2) Applies

Immigration Ordinance (Cap. 115)

Societies Ordinance (Cap. 151)

Crimes Ordinance (Cap. 200)

Prevention of Bribery Ordinance (Cap. 201)

Independent Commission Against Corruption Ordinance (Cap. 204)

Police Force Ordinance (Cap. 232)