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新聞稿

由：香港人權資訊中心

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聯合國委員會發表審議結論
關注有指香港司法獨立已遭《國安法》廢除
建議取消「國安熱線」

聯合國經濟、社會與文化權利委員會（委員會）昨天（3月6日）就香港政府實施《經濟、社會與文化權利的國際公約》（《公約》）的狀況發表審議結論。其提出的觀察和建議非常明確及尖銳，尤其關注到有報告指《國安法》實際上已廢除香港的司法獨立，並被用來打壓學術自由及組織工會的自由等；又建議取消「國安熱線」。

香港人權資訊中心（本中心）認為，繼去年聯合國人權事務委員會就《國安法》等議題作出嚴厲批評後，委員會今次再對人權狀況多番表達憂慮，反映香港人權正受到嚴重及系統性的侵犯，香港及中國政府的行為不被國際社會接受，亦違反國際人權標準。

本中心發言人表示：「雖然《國安法》第4條聲稱會保障《公民權利和政治權利國際公約》與《經濟、社會與文化權利的國際公約》列明的人權，但諷刺的是，兩條國際公約的監察機構（即人權事務委員會及經濟、社會與文化權利委員會）都先後於其審議結論中，批評《國安法》侵害公約理應保障的權利，前者更於去年表明港府應廢除整條《國安法》。可見獨立的國際人權專家普遍認為《國安法》嚴重侵犯香港的人權，港府聲稱的保障根本無法補償《國安法》帶來的破壞。本中心要求香港及中國政府立即廢除《國安法》，並停止檢控相關人士。」

對於港府迅速以強烈措辭反對審議結論的內容，更指控委員會作出失實誤導的陳述，本中心強調委員會是由18位來自不同國家的人權專家組成，其審議結論是建基於國際人權標準，以及包括本中心在內的多個獨立民間組織所提交的報告而成；其作出的觀察及建議，亦是以公開資料及客觀事實為依據。香港政府一方面未能回應其侵犯人權的具體事例，另一方面卻空泛地指控委員會罔顧事實，做法不但反映港府拒絕履行《公約》的責任，亦顯示它不尊重聯合國的人權機制及職能。

本中心發言人表示：「即使港府繼續空泛地反對一切國際人權機構的意見、無差別地批評他人誤導失實，也不會改變自己侵犯人權的事實。根據《基本法》，《公約》適用於香港，因此港府絕對有義務徹底履行《公約》的規定及全面尊重《公約》的審議機制，而不是只機械式地反對其一切意見。」

本中心促請香港政府履行《公約》責任，採納及盡快落實是次審議結論的觀察及建議，並按照人權事務委員會去年在審議結論提出的要求，廢除《國安法》及立即終止檢控有關人士等。同時，本中心對委員會的工作表達感謝和支持：「是次審議是繼 2014 年後委員會首次再討論香港的經濟、社會和文化權利。我們感謝委員會在繁重的工作下及極為有限的時間內，仍然審議了香港接近 9 年的人權狀況，並作出清晰有力的觀察及建議。」

委員會在是次審議結論中提出的觀察及建議包括：

- **司法獨立**：委員會關注有報告指《國安法》實際上已廢除香港的司法獨立，因此促請香港政府透過與中國政府合作，覆核《國安法》的內容，以確保全面的司法獨立及確保國家安全立法不會被隨意地用來干預司法獨立。
- **國安熱線**：委員會關注「國安熱線」被廣泛地利用，亦可能對公民社會、工會及教師等的工作及表達帶來有害的效應，因此建議港府廢除「國安熱線」。
- **學術及文化自由**：委員會亦關注有報告指《國安法》被用以向教職員和學生施壓、審查內容及侵蝕學術自由，並引致學生及教師遭開除及拘捕。委員會也關注有報告指《國安法》的實施正在負面地衝擊文化權利，例子包括其對漫畫家的滋擾，以及對獨立電影、劇場創作及電台內容等諷刺性內容的審查。委員會因此促請港府覆核《國安法》及相關法例，以保障全面的學術自由、藝術自由及文化權利。
- **對人權捍衛者的打壓**：委員會關注有報告指記者及律師等人權捍衛者遭到不符正當程序的拘捕、拘留及審訊，尤其是有報告指其拘留及審訊缺乏透明度。委員會建議港府立即提供正當程序的保障，包括確保人權捍衛者在每個程序上都能得到獨立及有效的法律代表。
- **工會權利**：委員會關注，有報告指《國安法》及《職工會條例》等法律被用以妨礙市民行使自由組織工會的權利。委員會建議港府覆核相關法律以保障相關權利。

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關於我們

香港人權資訊中心於 2022 年成立，是由一班擅長法律及政策研究的香港人所組成，目標是要向外界提供有關香港的人權、法治及政治發展的更新和可靠的資訊，以支持香港的公民社會，並以國際人權法和標準，捍衛香港的人權和自由。

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背景

為督促《公約》的締約國履行《公約》下的責任，以及持續地改善人權，委員會定期審議各締約國實施《公約》的狀況，並按觀察所得發表審議結論，詳述委員會的關注及對締約國政府提出改善建議。委員會已於 2023 年 2 月 15 及 16 日舉行會議，詳細審議中國大陸、香港及澳門的人權狀況，並向三地政府提出質詢。委員會已於 3 月 6 日發表審議結論，詳述委員會的關注和改善建議。

Press Release

From: Hong Kong Centre for Human Rights

Date: 7 March 2023

UN Committee issued concluding observations Concerned about reports that judicial independence abolished by NSL Recommending to abolish national security hotline

On 6 March 2023, The United Nations Committee on Economic, Social and Cultural Rights (“Committee”) issued [the concluding observations](#) (“CO”) on Hong Kong’s implementation of the International Covenant on Economic, Social and Cultural Rights (“ICESCR”). The Committee’s observations are strong and clear, including concerns about reports that the National Security Law (“NSL”) has de facto abolished the independence of the judiciary, and was used to undermine the academic freedom and the right to form trade unions.

Before the Committee expressed its concerns over Hong Kong human rights situations, the United Nations Human Rights Committee had also made critical comments on the NSL and other issues last year. Hong Kong Centre for Human Rights (“HKCHR”) believes the fact that two authoritative committees have made similar observations shows that human rights in Hong Kong is under serious and systemic attacks, and that the policies and acts of the Chinese and Hong Kong governments are inconsistent with international laws.

The spokesperson of HKCHR said: “Despite the guarantee of rights under the International Covenant on Civil and Political Rights and the ICESCR made by Article 4 of the NSL, ironically, the committees under both covenants (i.e. the Committee and the Human Rights Committee) have criticised the NSL for violating the very rights that should be protected according to the covenants. It is therefore clear that most of the independent human rights experts believe that the NSL does seriously infringe on human rights in Hong Kong, and that such infringements cannot be cured or avoided by the current regulations and policies. We demand the Chinese and Hong Kong governments to repeal the NSL immediately, and to cease any existing prosecutions.”

HKCHR deplores the [Hong Kong government’s strong response to the CO](#), which called it as unfounded and misleading. It must be noted that the Committee consists of [18 independent human rights experts](#) coming from different countries across the world. Their observations are based on international human rights standards and the reports submitted by a large number of civil society groups including HKCHR, which are substantiated by public information and facts. While the Hong Kong government claimed that the CO is unfounded and misleading, it has never commented on individual incidents of human rights violations. Such vague and blanket denial of the Committee’s findings indicates that the Hong Kong government is unwilling to oblige with the ICESCR and the United Nations’ human rights mechanisms.

The spokesperson of HKCHR said: “Repeatedly rejecting the comments from international organisations does not and cannot change the fact that the Hong Kong government has violated human rights of Hongkongers. According to the Basic Law, the ICESCR is applicable to Hong Kong and it is the responsibility of the Hong Kong government to fully comply with it as well as to respect the oversight mechanisms”

HKCHR urges the Hong Kong government to adopt the Committee's observations and recommendations, and repeal the NSL immediately as recommended by the Human Rights Committee last year.

HKCHR also thank the Committee for their hard work. The spokesperson of HKCHR said: "The last review was conducted in 2014. We are therefore grateful for the instant review in which the Committee has studied and discussed the human rights situations in the last 9 years, despite the other heavy workload and the very limited time for preparation and discussion."

Some of the key observations and recommendations made by the CO:

- **Judicial Independence**: The Committee is concerned about reports that the NSL has de facto abolished the independence of the Hong Kong judiciary. It urged the Hong Kong government, in cooperation with the Chinese government, to review the NSL to ensure the full independence of the judiciary and that national security legislation is not arbitrarily used to interfere with it.
- **National Security Hotline**: The Committee is concerned that the national security hotline is used extensively and might have detrimental effects on the work and expression of civil society, trade unions and teachers. It recommended the abolition of such hotline.
- **Academic Freedom and Cultural Right**: The Committee is concerned about reports that the NSL is being used to put pressure on staff and students in higher education institutions, censorship of content, and undermine their academic freedom, and has led to the dismissal and arrest of students and teachers. It is also concerned about reports that the implementation of the NSL is negatively impacting the right to culture, as it has led to harassment of cartoonists, as well as censoring of online and offline satiric content, including censoring of independent cinema, theatre productions and radio emissions. It therefore urged the Hong Kong government to review its legislation to ensure the full academic freedom, artistic freedom and enjoyment of the rights to culture
- **Human Rights Defenders**: The Committee is concerned about reports of arrests, detentions and trials without due process of journalists, human rights lawyers and other human rights defenders; and particularly reports of a lack of transparency regarding their detention and trials. The Committee recommends that Hong Kong government immediately provides all due process guarantees of human rights defenders.
- **Trade Unions**: The Committee is concerned about reports that domestic laws and regulations, including the NSL, are implemented to hamper the exercise of the rights to freely form trade unions. It recommends the Hong Kong government reviews the laws to avoid such infringement.

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About us

HKCHR is established in 2022 by a group of human rights defenders from Hong Kong with strong background in policy and legal research. The mission of HKCHR is to provide credible information on the latest situation in Hong Kong, with reference to its legal, political, and human rights development, in order to support the resilient civil society in Hong Kong and defend the city's rights and freedoms in accordance with international human rights law and standards.

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Background

The Committee regularly reviews each State party's implementation of the ICESCR in order to monitor their fulfilment of their obligations under the treaty and to improve human rights. The Committee would issue concluding observations after each review to detail the Committee's concerns and recommendations for the State party to better discharge their obligations under the treaty.

The ICESCR applies to Hong Kong. The Committee held meetings with the Chinese, Hong Kong and Macau governments from 15 to 16 February 2023 to raise questions about human rights issues. The Committee issued concluding observations to elaborate its concerns and recommendations on 6 March 2023.