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Summary record of the 3895th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 12 July 2022, at 10 a.m.

Chair: Ms. Pazartzis

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Fourth periodic report of Hong Kong, China (continued) (CCPR/C/HKG/4;
CCPR/C/HKG/Q/4; CCPR/C/HKG/RQ/4)

1. *At the invitation of the Chair, the delegation of Hong Kong, China, joined the meeting.*
2. **The Chair** said that she wished to convey her apologies to the delegation of Hong Kong, China, for the technical issues in Geneva that had led to the early adjournment of the previous meeting.
3. **A representative of Hong Kong, China**, speaking via video link, said that the Chief Executive did not nominate judges to hear particular cases and could not interfere directly in court matters. However, judges whose statements or behaviour had endangered national security were barred from hearing cases brought under the National Security Law. Those judges did not lose their tenure, which was protected under the Basic Law. There was no overriding public interest in the disclosure of detailed information on the designation of judges; indeed, threats of violence, including death threats, had been made against judges hearing national security offences. Recent calls by foreign entities for unilateral sanctions to be imposed on judges designated to hear such cases violated the principle of non-intervention in international law.
4. A recent court ruling had highlighted the fact that the strict conditions established for granting bail for persons charged with offences under the National Security Law were justified by the vital need to safeguard national security. Nevertheless, the Court of Final Appeal had ruled that those conditions must be applied in line with articles 4 and 5 of the National Security Law, which provided protection for human rights and freedoms; those conditions were not, therefore, incompatible with the Covenant. Although the National Security Law applied only to acts committed after its entry into force, a person's conduct prior to that point could be used as a basis for inferring their state of mind and determining the context of the offence. Neither the Basic Law nor the Covenant provided for a defendant's right to a trial by jury in criminal proceedings, and not all cases to be heard without a jury required certification by the Secretary for Justice; they were handled on a case-by-case basis. The Government of Hong Kong, China, was free to make changes to the jury system so long as they were not fundamental in nature. Judgments in trials held behind closed doors must be delivered in open court.
5. It would be inappropriate to comment on specific cases in which lawyers had been charged under the National Security Law. Law enforcement agencies operated based on evidence, without regard for a person's background or occupation, and lawyers who violated the law faced the same legal consequences as other individuals. The Chief Executive was responsible for national security in Hong Kong, China, and chaired the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region. That official was therefore best placed to certify whether an offence involved national security and whether evidence pertained to State secrets. In most cases involving State secrets, the burden remained on the prosecution to establish all the elements of the offence, thereby striking a reasonable balance between the protection of those secrets and defendants' right to a fair trial.
6. During the formulation of article 43 of the National Security Law, due consideration had been given to the powers required by the police to enforce the law effectively, and officers implemented the measures set out in that article lawfully. Members of the public could lodge complaints against police officers with the Independent Police Complaints Council, and the courts had already heard several challenges to search warrants and asset-freeze notices issued under the Law's implementation rules. In the case to which Ms. Sancin had referred during the previous meeting, the court had emphasized that the National Security Law was compatible with human rights and freedoms and that article 42 (2) must be applied in accordance with articles 4 and 5 of the Covenant, which protected those rights and freedoms, as well as with other general procedural rules set out in the Law.

7. The cases addressed under schedule 6 of the implementation rules were significantly more serious than those dealt with under the Interception of Communications and Surveillance Ordinance, which was not suited to the highly sensitive information and materials involved in national security cases. A mechanism overseen by the Chief Executive had therefore been required, given that the executive authorities were best placed to assess national security risks and authorize the interception of communications and covert surveillance. Strict conditions must be met before covert actions were authorized, including in terms of proportionality and necessity; legal professional privilege was respected while bearing in mind the possible inaccuracy of the information in question.

8. **A representative of Hong Kong, China**, speaking via video link in reply to a point raised by Mr. Gómez Martínez at the previous meeting, said that the commitment of the judiciary to the rule of law and judicial independence was unaffected by the recent departure of two non-permanent judges from the Court of Final Appeal. Four local non-permanent judges and 10 judges from other common law jurisdictions remained on the bench of that court. In the case of *Ubamaka Edward Wilson v Secretary for Security and Director of Immigration*, the Court of Final Appeal had recognized the absolute, non-derogable nature of the right to protection against torture and cruel, inhuman or degrading treatment or punishment, including during public emergencies, by virtue of section 5 of the Hong Kong Bill of Rights Ordinance.

9. **A representative of Hong Kong, China**, speaking via video link, said that, under the Personal Data (Privacy) Amendment Ordinance, the Privacy Commissioner for Personal Data could issue cessation notices to request the removal of online messages that divulged personal information unlawfully, without consent and with the intent to cause harm to the data subject or his or her family, or in a reckless manner that could cause such harm, provided that the data subject was a resident of Hong Kong, China, or present there when the message was posted. Cessation notices could be appealed, and the Ordinance had achieved a reasonable balance between the protection of privacy and freedom of speech.

10. The LeaveHomeSafe digital application rolled out to contain the spread of the coronavirus disease (COVID-19) did not track users or require them to register personal information. The data gathered by the application, which were limited to the date and time of entry and exit from venues in order to facilitate contact tracing, were transferred to government systems only with users' consent and following an official request from the Centre for Health Protection, and they were erased after 31 days. If a user became infected with COVID-19, those data, together with other relevant personal data, were used to implement the necessary health protection measures. All processes involved in notifying users of possible exposure were performed within the application.

11. **Ms. Abdo Rocholl** said that, despite the claimed commitment of the Government of Hong Kong, China, to press freedom, the Committee was concerned at the adoption of legislation and measures that drastically reduced freedom of expression. There were reports that since the entry into force of the National Security Law, journalists critical of the Government had been prosecuted and convicted of criminal offences; many others were currently in pretrial detention with no possibility of bail and, in some cases, facing life sentences. The National Security Law appeared to have been applied retroactively to the press, including the Apple Daily newspaper and the Stand News website, with sanctions having been imposed for the publication of articles that predated the Law's promulgation. The Government had also reportedly influenced editorial policy at Radio Television Hong Kong and restricted journalists' access to public registers.

12. Police control of the Internet was apparently increasing, and the many reported instances of State action against the press included the closure of media outlets; raids on their offices; police violence against journalists; the blocking of websites; the freezing of outlets' assets; the dismissal of journalists who expressed their opinions; and censorship. In other cases, media outlets had shut down on their own initiative for fear of reprisals, and foreign journalists had encountered a great deal of difficulty in obtaining visas. The Committee had also been informed that the Hong Kong Journalists Association had sought a judicial review of the Police Force's hindrance of legitimate press activities.

13. She therefore wished to know whether the Government of Hong Kong, China, was planning to repeal the National Security Law, given its incompatibility with international law and the Government's obligations under the Covenant. She would also welcome information on any plans to amend or repeal provisions on sedition, to cancel planned legislation that would further restrict press freedom and to instead amend existing legislation that sanctioned freedom of expression online and allowed online messaging platforms to be blocked. It would be useful to have details on the draft legislation on fake news and the sanctions provided for therein and to learn whether the Government envisaged discontinuing the detention, immediately and unconditionally, of all journalists and citizens of Hong Kong, China, who had been imprisoned for exercising their right to freedom of expression. Similarly, she wished to know whether the Government would consider lifting the administrative measures that restricted media operations and whether it planned to guarantee the editorial independence of Radio Television Hong Kong.

14. While the Government claimed to place great importance on upholding academic freedom and institutional autonomy, the Global Public Policy Institute had downgraded the rating of Hong Kong, China, from C to D in its Academic Freedom Index and, in recent years, many academics had reportedly been dismissed and arrested for offences such as sedition. In August 2021, the Hong Kong Professional Teachers' Union had disbanded following attacks in the press.

15. In February 2021, the University of Hong Kong had imposed punitive measures on the students' union, including the withdrawal of financial and administrative support, in response to a document criticizing the National Security Law. In April 2021, University administrators had imposed sanctions on the union for issuing an open letter to the President of the University expressing concern about the recently announced compulsory national security study plan. The students' union had been dissolved in October 2021, and the police had arrested four former members of the students' union pursuant to the National Security Law for "advocacy of terrorism". In February 2022, the students' union of the City University of Hong Kong had been ordered to vacate the university premises within a week. At a farewell ceremony, students had written phrases such as "freedom of thought" and "academic autonomy" on the external wall of a store, and the police had announced that an investigation would be conducted into those acts to determine if there had been a violation of the National Security Law.

16. A list of the books that had been removed from public libraries pursuant to an order by the Leisure and Cultural Services Department following the enactment of the National Security Law would be appreciated. The Committee wished to know whether there were any plans to restore freedom of thought and expression in the academic sphere and to release all academics, students and other persons who had been arbitrarily detained for expressing their academic, artistic or cultural views.

17. **Mr. Furuya** noted that the Public Order Ordinance required organizers of meetings of a certain size to notify the Commissioner of Police in writing at least a week prior to the planned date. The Commissioner could prohibit the meeting in the interests of national security, public safety, public order or protection of the rights and freedoms of others. The Committee wished to know how many notifications had been submitted during the past five years and how many meetings had been prohibited. As meeting organizers who disagreed with the Commissioner's decision were authorized to lodge an appeal with the Appeal Board on Public Meetings and Processions, he wished to know to what extent the Appeal Board investigated the compatibility of such decisions with the protection of peaceful assembly under the Basic Law, the Bill of Rights Ordinance and the Covenant. It would be useful to learn how many appeals it had received and in how many cases it had reversed the prohibition of meetings during the past five years.

18. Noting that 15 persons had been arrested in 2019 for organizing or taking part in an unauthorized public assembly, he wished to draw the delegation's attention to the Committee's general comment No. 37, according to which such action was improper. He wished to know how many people had been arrested and prosecuted in connection with public assemblies during the past five years and invited the delegation to comment on the compatibility of such measures with article 21 of the Covenant concerning the right of peaceful assembly.

19. The Court of Final Appeal had ruled in December 2020 that the Prohibition of Face Covering Regulation was not unlawful, but general comment No. 37 clearly stated that the wearing of face coverings should be permissible. He would appreciate an explanation of how the implementation of the Regulation was deemed to be compatible with the right of peaceful assembly under the Covenant.

20. The Committee had been informed that the Prevention and Control of Disease Ordinance and other emergency public health emergency laws enacted in response to the COVID-19 pandemic had been used to impose undue restrictions on the right of peaceful assembly. He wished to know to what extent the Government had taken into account the necessity and proportionality of such restrictive measures.

21. **Mr. Bulkan** said that there were credible reports, notwithstanding the official narrative, that the response of the Hong Kong Police Force to public demonstrations in 2019 and 2020 had been reckless and indiscriminate. Such reports were based on live video footage and personal accounts of what had transpired, including incidents involving excessive use of force against unarmed protesters, the use of contaminated water in water cannons, intimidatory tactics such as mass arrests, strip searches and sexual assaults, and denial of access to medical treatment for arrested persons and detainees.

22. If, as claimed, no deaths had been caused by law enforcement officers, he wished to know whether the deaths that had occurred during protests which had been ruled to have been suicides had been investigated. He asked what medical facilities had been made available to arrested persons and detainees. As only a fraction of the 2,000 complaints lodged against the police had been reviewed to date, it would be useful to know whether the Government intended to address the remainder on the basis of a specific timeline. Had criminal charges or disciplinary action been brought against police officers who had injured protesters during the assemblies?

23. The Committee would appreciate statistics on the numbers of protestors who had been arrested, charged and convicted and an overview of the types of offences for which they had been charged and/or convicted. Had defendants in ongoing trials been granted bail? How many cases were pending?

24. A recent court trial had revealed that a stampede provoked by the use of tear gas by the police to disperse crowds in November 2019 had led to the admission of a large number of people to hospital. He wished to know whether a commission of inquiry would be conducted to ensure accountability for any excessive use of force and whether training courses would be organized to enhance the capacity of law enforcement officers to manage and control large-scale assemblies.

25. He noted that, while the 1,500-member Election Committee elected 40 of the Legislative Council's 90 members and the Chief Executive, 4.5 million eligible voters elected only 20, and the candidates for those 20 seats were screened by the Candidate Eligibility Review Committee, which could disqualify candidates largely at its discretion. He wished to know when universal suffrage would be introduced in order to ensure that millions of Hong Kong residents were no longer disenfranchised.

26. The Committee wished to know whether the Government intended to respect the letter and spirit of the Basic Law, which provided for the autonomy of Hong Kong, China, and the self-governance of its residents and enshrined the principle of non-interference.

27. **Mr. Gómez Martínez** said that, in view of the fact that almost 100 civil society organizations operating in Hong Kong, China, had been disbanded or relocated since the enactment of the National Security Law less than two years previously, information would be welcome on the steps taken to ensure that the enforcement of the National Security Law and the Societies Ordinance did not interfere with the exercise of the right of association.

28. The Committee was concerned about reports that trade unions were subjected to unjustified requests for information from the Government and were threatened with deregistration owing to the broad definitions of "foreign collusion" in the National Security Law and of "foreign agent" in its Implementing Regulations. It was his understanding that a decision to deny registration to a society or trade union could be appealed to the Chief Executive, but a court ruling on the merits of the decision could not be sought. He wished to

know why the right of association, which was recognized in article 27 of the Basic Law, was not subject to judicial review. The Committee would appreciate a list of associations, including a disaggregated list of trade unions, that had been denied registration, along with information on how many applications were pending. It appeared that at least 29 trade unions had been disbanded in the first eight months of 2021.

29. The Committee wished to know whether civil society organizations that interacted with United Nations human rights mechanisms were deemed to be endangering national security under the Societies Ordinance, whether United Nations treaty bodies were viewed as foreign political organizations under the Ordinance and whether interaction with such bodies was classified as collusion with foreign forces under the National Security Law.

The meeting was suspended at 11 a.m. and resumed at 11.15 a.m.

30. **Mr. Tsang Kwok-wai** Erick (Hong Kong, China) said that the new electoral system had enhanced the democratic system in Hong Kong, China. The membership of the Election Committee had been expanded from 1,200 to 1,500, and the number of seats in the Legislative Council had been increased from 70 to 90. The composition of both bodies had been optimized to enhance their representative status. The Election Committee now included representatives of small and medium-sized enterprises and of grassroots organizations. The members of the Legislative Council were elected by the Election Committee, functional constituencies and geographic constituencies. Institutional safeguards had also been established to ensure effective governance and long-term stability. The elections conducted under the improved system had resulted in broad representation, fair competition, political inclusiveness and balanced participation. The ultimate aim of attaining universal suffrage pursuant to the Basic Law remained unchanged.

31. The Candidate Eligibility Review Committee ensured that candidates for the Election Committee, the office of Chief Executive and the Legislative Council were in compliance with article 104 of the Basic Law.

32. **A representative of Hong Kong, China**, speaking via video link, said that freedom of assembly and freedom of association were fully protected by the Basic Law and the Hong Kong Bill of Rights. However, such freedoms were not absolute and could be restricted in line with the provisions of articles 21 and 22 of the Covenant. The courts had ruled that violence or threats of violence during protests constituted unlawful acts, but the Court of Appeal had emphasized that the arrest and prosecution of such persons did not deprive them of their right to demonstrate or their rights to freedom of assembly and freedom of expression.

33. The notification requirements provided for under the Public Order Ordinance had been upheld as constitutional by the Court of Final Appeal. The notifications enabled the police to take reasonable and appropriate measures to ensure that lawful demonstrations were conducted peacefully. Such assemblies could be prohibited only where such action was necessary in the interest of national security or public safety. The allegation that the Government was imposing social distancing measures in connection with the COVID-19 pandemic with the intent of suppressing lawful assemblies was unfounded. Such measures were not based on political considerations but on analyses of necessity and proportionality.

34. The Prohibition of Face Covering Regulation was intended to deter masked rioters from committing violent illegal acts under cover of anonymity. The Regulation constituted a crucial deterrent in preventing peaceful gatherings from descending into violence. The restrictions were no more than was reasonably necessary, and similar laws were in force in several countries of North America and Western Europe.

35. The Societies Ordinance was compliant with the Bill of Rights, which had been enacted to implement the Covenant. An association would be refused registration only if that was necessary in order to uphold national security, public safety, public order or the protection of the rights and freedoms of others, or if it was a political body connected to an organization in another country or in Taiwan Province of China. Appeals against refusals could be submitted to the Chief Executive; a petition for judicial review could also be brought. Individual organizations were entitled to dissolve themselves, and the Government of Hong Kong, China, would not speculate or comment on their reasons for doing so.

36. The two-tier police complaint system was a fair, impartial and effective means of handling complaints against the Hong Kong Police Force. The Independent Police Complaints Council exercised independent oversight on the handling of such complaints and could recommend improvements in practices and procedures to the Chief Executive. In 2020, the Council had established a task force that was personally supervised by the Secretary for Security to follow up on the Council's recommendations based on its review of the events of 2019. In May 2022, the Hong Kong Police Force had completed the follow-up on all 52 of the resulting recommendations, covering all major aspects of police work; a total of 78 improvement measures had been introduced to strengthen the police system and the capabilities of individual officers.

37. **A representative of Hong Kong, China**, speaking via video link, said that the police assessed the circumstances on the ground and took the appropriate action to ensure public safety and public order, including the use of force, where necessary. Every newly recruited or serving police officer underwent rigorous training on the use of force. That training was designed to allow officers to fully understand how to use different levels of force safely and effectively to achieve a lawful purpose, ranging from employing verbal advice to using firearms. Officers always exercised a high level of restraint and ceased to use force once that lawful purpose had been achieved.

38. While the Hong Kong Police Force respected the freedom of the press and did not wish to come into conflict with professional reporters, police work must not be obstructed or hindered by anyone. During the social unrest of 2019, there had been several instances of large groups of individuals posing as reporters in order to obstruct the police in the performance of their duties; in some cases, these groups had even assaulted officers. The Hong Kong Police Force had established the Force Media Liaison Cadre in 2015 and then, as a result of the unrest of 2019, increased the Cadre's staff from a little over 100 to more than 300. The Cadre's role was to engage with the media, thereby facilitating the latter's work while relieving front-line officers from media liaison duties.

39. Specialized crowd management vehicles were commonly used by overseas law enforcement agencies, including those of France, Germany and the Republic of Korea. Their purpose was to disperse potentially violent protesters in a way that minimized direct confrontation. Depending on operational needs, the vehicles could be equipped with a solution similar to pepper spray or with coloured water; the latter was a non-toxic colourant that could help the police to identify violent protesters. Both substances could easily be washed off using water, after which they were both harmless.

40. Reports of sexual assault by police officers during the social unrest of 2019 had been fake news based on groundless and malicious accusations. The man who had alleged that police officers had raped several female protesters inside San Uk Ling Holding Centre had been convicted and jailed for making fraudulent statements.

41. Lastly, the police thoroughly investigated all deaths by suicide. Since the cases mentioned had occurred in 2019, inquests into some of them had already been conducted. Details would be provided in writing.

42. **A representative of Hong Kong, China**, speaking via video link, said that, in accordance with article 4 of the National Security Law, operations by law enforcement agencies must respect human rights. While those agencies duly respected the various human rights treaties, the rights and freedoms recognized under the Covenant were not absolute and could be restricted on grounds of national security and public order. All law enforcement operations were conducted on the basis of evidence, in strict accordance with the law; they had nothing to do with the perpetrator's political stance, background or occupation. The courts, having reviewed all the evidence, adjudicated each case impartially and in accordance with the applicable laws. It would be contrary to the rule of law if, as members of the Committee had suggested, certain persons or organizations with certain backgrounds were immune to punishment for their illegal acts.

43. Since the exercise of sovereignty had been resumed by China, the Government of Hong Kong had been strongly committed to safeguarding freedom of speech and freedom of the press, both of which were protected under the Basic Law, the Bill of Rights and the National Security Law. The number of media organizations registered in Hong Kong, China,

had increased since the enactment of the National Security Law. The granting or denial of visas to foreign journalists was an immigration matter that had nothing to do with freedom of the press; the Government of Hong Kong, China, would not comment on individual cases.

44. Civil society organizations that had left Hong Kong, China, after the introduction of the National Security Law could have made that decision for many reasons, for instance as a result of the violent street protests that had occurred in 2019. The National Security Law had enabled the city to return to life as normal and to the path of development. Civil society organizations involved in normal interactions with United Nations bodies were protected by the Basic Law and the laws of Hong Kong, China; only interactions that fell outside the norm were punishable under the National Security Law. It was impossible to generalize about whether a United Nations body would meet the definition of a foreign political organization under the Societies Ordinance, since that depended on the particulars of the case and on the activities of the body in question.

45. **A representative of Hong Kong, China**, speaking via video link, said that the Trade Unions Ordinance and other laws protecting employees' right to organize were unaffected by the enactment of the National Security Law. Unions remained free to affiliate with workers' organizations abroad. The Registry of Trade Unions had received over 4,000 registration applications between December 2019 and May 2020, the great majority of them for unions formed for political purposes with a view to winning seats on the Election Committee. Some 600 new unions had been registered since 2020. It was possible to appeal to the Court of First Instance against the refusal of a registration application, although no applications had actually been refused.

46. **A representative of Hong Kong, China**, speaking via video link, said that, while academic freedom was protected under article 137 of the Basic Law, universities still had to act in the public interest and abide by the law. In view of the significant government funding they received and of higher education's importance to overall social development, the Government of Hong Kong, China, and the general public had a legitimate interest in ensuring that such funding was used in ways that served the best interests of the community and of the student body.

47. **Ms. Sancin**, noting that none of the many complaints received by the Equal Opportunities Commission had resulted in any findings that a discriminatory act had been committed, said that details of the standard of evidence that the Commission used when assessing complaints would be helpful. Further to that, she wondered how many of those complaints had been submitted by lesbian, gay, bisexual, transgender or intersex persons. In a similar vein, she would welcome further information on the standards used to assess complaints lodged with the Office of the Privacy Commissioner for Personal Data, given that none of the 6,707 complaints received by the Office in the previous two years had led to a prosecution. Lastly, she invited the delegation to comment on reports that detainees were surveilled everywhere in the Tai Tam Gap Correctional Institution, with cameras even in the showers and toilet areas.

48. **Mr. Furuya**, referring to paragraph 136 of the list of issues, said that it was unclear what factors the Commissioner of Police considered when deciding to prohibit an assembly on grounds of national security, public safety, public order or the protection of the rights and freedoms of others. In particular, he wished to know whether those factors included the assembly's purpose, such as, for instance, if it was a demonstration against government policy. Notwithstanding the explanation that the Prohibition of Face Covering Regulation had been aimed at maintaining public safety in the face of the demonstrations of 2019, he wondered whether the Regulation still passed the necessity and proportionality test, given that it was still in force despite the increased stability of Hong Kong, China, in 2022.

49. **Mr. Gómez Martínez** said that he was somewhat dissatisfied with the delegation's replies to his questions about the potential consequences for civil society organizations that had taken part in the State party review process. The assertion that the National Security Law did not apply to "normal" activities was hardly reassuring. The delegation should clarify whether the Committee and other treaty bodies might be considered "foreign organizations" and whether the engagement of civil society organizations with those bodies might thus

constitute “collusion with external elements to endanger national security” under the National Security Law.

50. **Ms. Abdo Rocholl** said that, given the far-reaching restrictions that were in effect on grounds of national security, detailed information was needed on the safeguards in place to uphold freedom of expression. It would also be useful to obtain a response to her earlier question regarding the punitive power of the draft fake news regulations and to obtain the requested list of books banned from public libraries. Could the delegation offer its thoughts on reports that some schools had started to remove books from the reading list for fear of being accused of endangering national security?

51. **Mr. Bulkan** said that he was somewhat surprised that the State party continued to be of the view that the Independent Police Complaints Council was best placed to process complaints about police misconduct, given that several international experts who had served on the Council and the Court of First Instance had voiced serious concerns regarding that body’s capacity to conduct proper investigations into such allegations. He was curious to learn more about the content of the 52 recommendations made by the Council on ways to improve the quality of policing and build public trust and about the improvement measures implemented in follow-up to those recommendations.

52. The Committee would also appreciate precise information on the composition of the chemical substances used against protesters, especially in the light of the reported use of tear gas that had been past its expiry date.

53. Some of his questions had regrettably remained unanswered. He would be grateful if the delegation could indicate what medical facilities had been made available for persons who had been arrested and detained during the protests; explain why only a fraction of the more than 2,000 complaints lodged against the police in relation to the 2019–2020 protests had been reviewed; and inform the Committee whether individual officers had been found liable for abuse of authority or excessive use of force.

54. The allegations of excessive police violence stood in stark contrast to the State party’s account of the protests. He wondered whether the Government would consider establishing a commission of inquiry to investigate the allegations with a view to obtaining an independent assessment of the events. In the light of reports that the police had responded to the isolated use of violence by some protesters with violence against the entire assembly, the State party might wish to recall its obligation under the Covenant, as elaborated upon in the Committee’s general comment No. 37 (2020) on the right to peaceful assembly, to carry out an individual assessment of the conduct of participants. Moreover, States parties were obligated to facilitate assemblies and impose restrictions only if they were necessary to preserve the State’s capacity to protect the existence of the nation, its territorial integrity or political independence against a credible threat or use of force. It would be helpful to obtain additional information on the measures to be taken to reconcile the competing claims surrounding the events of that period.

55. In the light of the many shortcomings of the current electoral system, the State party’s assurances that it remained committed to introducing universal suffrage was greatly appreciated. Could the delegation provide a timeline for that measure?

56. **A representative of Hong Kong, China**, speaking via video link, said that it was highly unlikely that an ordinary person or institution would be charged with the offence of collusion under the National Security Law. It emerged from the nature and definition of the offence as reflected in article 29 of that law that Hong Kong residents or institutions were not precluded from engaging with an overseas institution or counterpart. The elements considered as a threat to national security were clearly set out. Furthermore, article 4 of the National Security Law clearly stipulated that human rights must be respected during the enforcement of measures to safeguard national security.

57. **A representative of Hong Kong, China**, speaking via video link, said that the “smart” prison system introduced in the Tai Tam Gap Correctional Institution had been designed with due respect for inmates’ privacy in consultation with the Office of the Privacy Commissioner for Personal Data. Video recordings of toilet areas were blurred, and the blurred area could not be recovered in the system.

58. The rationale behind the adoption of the Prohibition on Face Covering Regulation remained valid. The situation would be kept under review and the Regulations would be revisited as and when appropriate.

59. The Government was reviewing the different approaches taken by other countries to tackle the problem of fake news in order to draw inspiration for its own set of effective regulatory proposals, which would be adapted to the local context and informed by broad public consultations.

60. Statistical data on complaints would be submitted in writing.

61. **A representative of Hong Kong, China**, speaking via video link, said that the right to peaceful assembly was guaranteed, provided its exercise did not overly disrupt public order and participants did not act in defiance of the law. The police had been handling all public order events in a fair and impartial manner in accordance with the laws of Hong Kong, China. It endeavoured to strike a balance between facilitating the smooth conduct of lawful and peaceful public meetings and minimizing the impact of such events on the public and ensuring public order and safety. Consistent with its statutory duty to maintain public safety and public order, the Hong Kong Police Force conducted a risk assessment for individual public order events based on the objectives, nature, number of participants, past experience and current situation. Manpower was deployed flexibly, and crowd management measures were implemented in the light of the prevailing circumstances to ensure public safety and public order.

62. For operational reasons, it would be inappropriate to disclose detailed information on the composition of chemical irritants used in law enforcement operations. Such agents were commonly employed in riot control actions across the world, yet their use by other countries had never been questioned. There was no documented evidence of adverse health or environmental effects.

63. **Mr. Tsang Kwok-wai** Erick (Hong Kong, China) said that his delegation was grateful for the opportunity to present the progress made and engage in a frank and constructive exchange with the Committee to dispel any doubts about the human rights situation in the Hong Kong Special Administrative Region.

64. Recalling his country's proven track record of economic liberty and respect for the rule of law and for the constitutional foundations of judicial independence and human rights, he said that the Central Government and the Government of the Hong Kong Special Administrative Region were determined to make the "one country, two systems" principle a continued success. The adoption of the National Security Law in response to the violence that had erupted in 2019 and the attendant threat to the country's sovereignty, national security and stability had no bearing on the proper functioning of the existing legal system, the independence of the judiciary or the enjoyment of human rights. In the adjudication of cases relating to national security, the presumption of innocence and the right to a defence were duly respected.

65. When it came to electoral reform, it was important to bear in mind that every place had its own historical, cultural and political background and that there was no one-size-fits-all electoral system. The electoral reform process was aimed at securing long-term stability in the Hong Kong Special Administrative Region by way of enhanced participation and broader representation. The establishment of a democratic system that was consistent with local circumstances had helped the country to get back on the right track. The ultimate goal of universal suffrage by way of a gradual and orderly process remained unchanged.

66. The rights-related legislation enacted during the reporting period illustrated the Government's firm commitment to the protection and promotion of human rights. On the occasion of the twenty-fifth anniversary of the establishment of the Hong Kong Special Administrative Region, with order restored and an improved electoral system in place, the country was entering into a new era of openness, diversity and harmony based on a successful "one country, two systems" policy.

67. **The Chair** said that the Committee appreciated the State party's detailed replies and its repeated expression of commitment to the protection of human rights and freedoms. Against the backdrop of the promulgation of national security legislation in June 2020, it was

important to remember that, in a democratic society, fair trial guarantees, independence of the judiciary, freedom of the press, freedom of association and freedom of assembly could be restricted only where necessary, reasonable and proportionate. The dialogue had also provided an opportunity for civil society organizations to make their views heard. It was the Committee's expectation that their engagement would not result in any adverse consequences for them.

The meeting rose at 12.35 p.m.