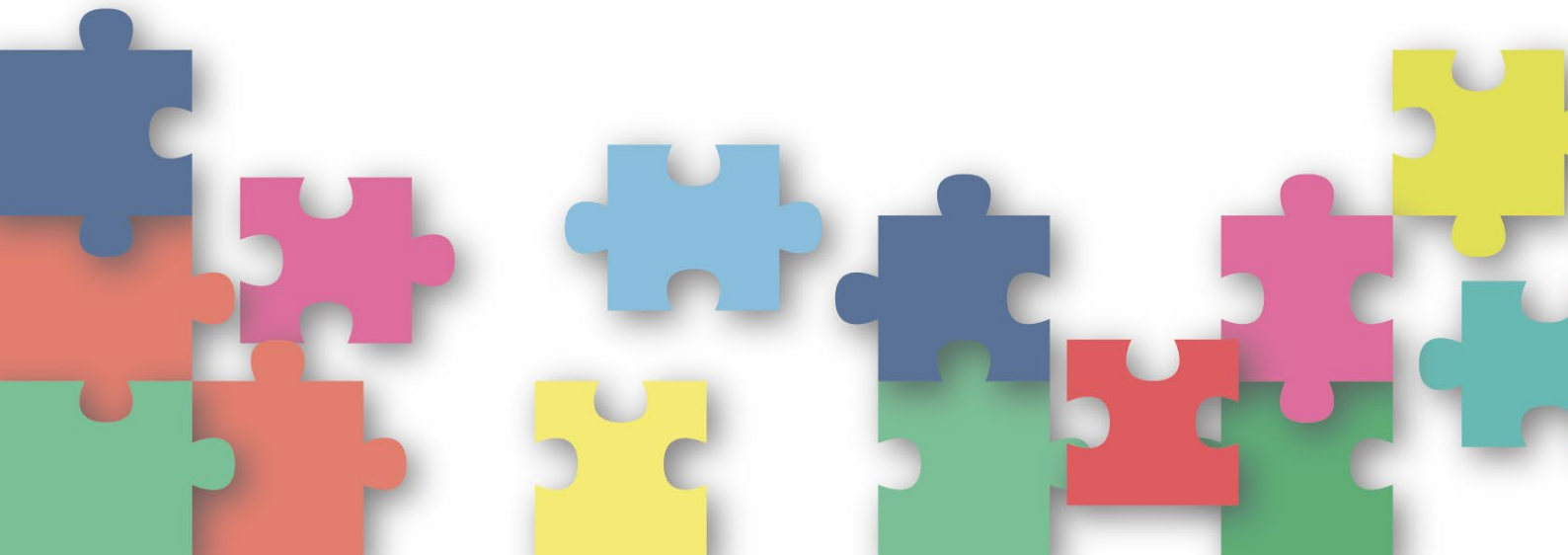


**Citizenship, Economics and Society
(Secondary 1-3)
Support Resources
Secondary 1**

**Module 1.4:
Rights and Duties**

Personal, Social and Humanities Education Section
Curriculum Development Institute
Education Bureau



Introduction

- The “Citizenship, Economics and Society (Secondary1-3) Support Resources” covers the essential learning contents of Strands 1, 5 and 6 in the Personal, Social and Humanities Education Key Learning Area. It is designed to support the implementation of the Citizenship, Economics and Society curriculum.
- The support resources provide diversified learning activities to help students acquire knowledge and understand concepts, develop skills and nurture positive values and attitudes. In addition, they offer teaching guidelines and suggestions on learning and teaching activities for teachers’ reference. Further, they provide reading materials to enhance students’ interest in reading.
- “Module 1.4: Rights and Duties” was developed by the Personal, Social and Humanities Education Section, Curriculum Development Institute of the Education Bureau.

Module 1.4: Rights and Duties

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Introduction

As residents of the HKSAR (Hong Kong residents shall include permanent residents and non-permanent residents), students should learn from an early age that the basis of the Basic Law is derived from the authorisation of the Constitution. The rights of Hong Kong residents are guaranteed by the Constitution, the Basic Law and the local legal system, and understand that they need to fulfil the duties of being a good citizen. At primary level, through various subjects (such as General Studies) and cross-curricular mode (such as class teacher lessons, values education activities, etc.), students have learned about the rights to be enjoyed and duties to be performed by Hong Kong residents, known about the importance of respecting for the rule of law and rights of others, and the necessity of respecting and observing the Constitution, the Basic Law and local laws. The learning contents of General Studies are particularly relevant, which include “differences among people and the need to respect the rights of others”, “the importance of the Basic Law to the lives of Hong Kong residents”, “rights and responsibilities of Hong Kong residents according to the Basic Law” and “the importance of observing law and order”.

As part of our country, Hong Kong has the responsibility of working hard to achieve prosperity and strength for the country. To safeguard the long term prosperity and stability of Hong Kong and to ensure the steadfast and successful implementation of “one country, two systems” in the right direction is the responsibility of every Hong Kong citizen. Through the primary school curriculum, especially General Studies, students understood that the Basic Law is the constitutional document of the HKSAR, and it was enacted by the National People’s Congress in accordance with the Constitution. It prescribes the systems to be practised in the HKSAR, in order to ensure the implementation of our country’s basic policies regarding Hong Kong, including the implementation of “one country, two systems”, “Hong Kong people administering Hong Kong” and a high degree of autonomy. Students should also understand that the HKSAR is an inalienable part of the People’s Republic of China and shall be a local administrative region of the People’s Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People’s Government. Students have nurtured national identity, self-awareness of respecting and safeguarding the fundamental systems of our country since childhood. They then correctly understand and maintain the unique status and advantages of Hong Kong so as to ensure the steadfast and successful implementation of “one country, two systems”.

Students will understand the key focuses of the fundamental rights and obligations of citizens prescribed in Chapter II of the Constitution, as well as the provisions of Article 11 of the Basic Law: In accordance with Article 31 of the Constitution, the system for safeguarding the fundamental rights and freedoms of its residents, and the relevant policies in the HKSAR, shall be based on the provisions of the Basic Law.

The fundamental rights and duties of Hong Kong residents are stipulated by the Basic Law. Students shall understand that “one country, two systems” and the Basic Law are the cornerstones of Hong Kong’s social system. “One Country” is the prerequisite and foundation as well as core on which “Two Systems” is implemented. Without “One Country”, there will not be “Two Systems”. The Basic Law, which is the constitutional document of the HKSAR, ensures the principles of the rule of law (including equality before the law, all persons have to abide by the law, the power of the government and all of its servants shall be derived from law, and judicial independence) and thus students will understand the importance of the rule of law to development of society. In addition, students should understand that as members of society which upholds the rule of law, their rights and freedoms are guaranteed by the Constitution, the Basic Law and the local legal system. At the same time, they have the obligation to abide by the Constitution, the Basic Law and the laws. Students should understand that the enjoyment of rights and freedoms carries with it duties and responsibilities. The exercise of rights is not without boundary. They need to consider the common good of society. For instance, the exercise of relevant rights may be subject to certain restrictions as provided by law when the restrictions are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order, or of public health or morals. Students should also understand the necessity of abiding by relevant regulations, and their importance to maintaining social stability and safeguarding national security.

Students have learned the fundamental rights and duties of Hong Kong residents under the Basic Law, which included Article 39 of the Basic Law and known how international agreements relating to rights and responsibilities apply to the HKSAR. They will further learn the rights and responsibilities covered in international agreements which are related to children’s rights and the elimination of prejudice and discrimination (including the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities), as well as how international agreements apply to the HKSAR in accordance with the provisions of the Basic Law.

Teaching Design:

Topic:	Rights and Duties
Duration:	10 lessons
Learning Objectives:	<ul style="list-style-type: none">• Learn the key focuses of the fundamental rights and obligations of citizens prescribed by Chapter II of the Constitution;• Understand that Article 11 of the Basic Law prescribes that in accordance with Article 31 of the Constitution, the system for safeguarding the fundamental rights and freedoms of Hong Kong residents, and the relevant policies in the HKSAR, shall be based on the provisions of the Basic Law;• Understand how the Basic Law and the rule of law guaranteed by it protect the rights and freedoms of the Hong Kong residents and prescribe that Hong Kong residents shall have the obligation to abide by the laws, as well as the importance of the rule of law to the development of society;• Understand the responsibilities and importance of being a good citizen, including that the exercise of rights, and freedoms carries with it duties and responsibilities, the need to respect for the rights of others and consider the common good of society, public order, public health or morals, and understand the necessity of abiding by relevant laws and regulations, and understand its importance to maintaining social stability and safeguarding national security;• Understand that Paragraph 1 of the Article 153 of the Basic Law prescribes that “The application to the Hong Kong Special Administrative Region of international agreements to which the People’s Republic of China is or becomes a party shall be decided by the Central People’s Government, in accordance with the circumstances and the needs of the Region, and after seeking the views of the government of the Region.”;• Strengthen the awareness of law-abiding and respect for the rule of law, recognise that abiding by laws and regulations is the basic responsibility of citizens, and willingly to abide by the laws and put it into practice so as to protect the interests of the public and maintain harmony with members in the society;• Develop a sense of national identity and support the implementation of the principle of “one country, two systems”, develop self-awareness of respecting and safeguarding the fundamental systems of our country, correctly understand and maintain the unique status and advantages of Hong Kong so as to ensure the steadfast and successful implementation of “one country, two systems”.
Note: Teachers do not need to ask students to memorize the contents of the Basic	

Law. Students only need to understand the meaning behind the contents of the relevant provisions and their application in daily life.

Lesson 1 (The Constitution and the Basic Law: Rights and freedoms)

		Suggested lesson time
Enquiry Process:	1. Set: The teacher asks students to view the video clip and discuss with their peers to complete “Activity 1: The Constitution is the fundamental law of the state”, so that students can understand that the Constitution is the fundamental law of the state and has supreme legal force.	15 minutes
	2. Presentation: The teacher asks students to read “Worksheet 1: The Constitution: Fundamental rights and obligations of citizens (1)”, and discuss and complete Questions 1 to 2 with their peers. The aim of this worksheet is to let students understand the rights and duties related to civic, political, personal and religious respects, etc. given to the citizens of the PRC in the Constitution.	25 minutes
Learning and Teaching Resource:	Activity 1; Worksheet 1	

Lesson 2 (The Constitution and the Basic Law: Obligations and duties)		
		Suggested lesson time
Enquiry Process:	1. Interactive teaching: The teacher asks students to read “Worksheet 2: The Constitution: Fundamental rights and obligations of citizens (2)”, and discuss and complete Question 1 to Question 3, so that students can understand the rights and duties related to work, education, scientific research, literary and artistic creation, and women etc. given to the citizens of the PRC in the Constitution.	20 minutes
	2. Interactive teaching: The teacher asks students to read “Worksheet 3: The Constitution: Fundamental rights and obligations of citizens (3)”, and discuss and complete Question 1, so that students can understand the duties of citizens towards the country that are enshrined in the Constitution.	20 minutes
Learning and Teaching Resource:	Worksheet 2-3	

Lesson 3 (Under the principle of “one country, two systems” and according to the Constitution, the Basic Law makes a special provision with respect to rights and duties)		
		Suggested lesson time
Enquiry Process:	<p>1. Set: The teacher asks students to discuss and complete “Activity 2: The Constitution and the Basic Law jointly form the constitutional basis of the HKSAR” and complete Question 1 to Question 4 to help students understand that the Constitution is the legislative and constitutional basis of the Basic Law. Also, the Constitution stipulates the national flag, the national anthem, the national emblem and the capital in Chapter IV and the stipulations are applicable to the whole country. Thus, the Basic Law does not make the same stipulations in its articles. It only makes a special provision in Article 10(1).</p>	20 minutes
	<p>2. Interactive teaching: The teacher asks students to read “Worksheet 4: Under the principle of “one country, two systems” and according to the Constitution, the Basic Law makes a special provision with respect to rights and duties”, and discuss with their peers and complete Question 1 to Question 4, so that students can understand that Article 11 of the Basic Law makes a special provision indicating that the system for safeguarding the fundamental rights and freedoms of its residents, and the relevant policies practised in the HKSAR shall be based on the provisions of the Basic Law. Also, the students will understand the special provisions made in the Basic Law with respect to national security, garrison and taxation.</p>	20 minutes
Learning and Teaching Resource:	Activity 2; Worksheets 4	

Lesson 4 (Who are Hong Kong residents?)		
		Suggested lesson time
Enquiry Process:	<p>1. Set: The teacher uses “Activity 3: Rights and Duties” as an introduction. Then, the teacher asks students to watch the video clip “Rights and Duties” and complete Question 1 to Question 4 to get a preliminary understanding of the basic rights and duties of Hong Kong residents.</p>	10 minutes
	<p>2. Interactive teaching: The teacher uses “Worksheet 5: Who are Hong Kong resident?” as teaching material and asks students to read Article 24 of the Basic Law (Source 1). Then, students discuss with their peers the identity of each person listed in Question 1 and complete Questions 2 and 3. The aim of this worksheet is to let students understand different types of Hong Kong residents.</p>	15 minutes
	<p>3. Further Reading: Students are free to choose to read Appendix 1 “Know more: Do foreign domestic helpers have the right of abode in Hong Kong?” after class. They can understand the final judgment of the Court of Final Appeal on whether foreign domestic helpers have the right of abode.</p>	
	<p>4. Interactive teaching: The teacher uses “Worksheet 6: Who are permanent residents of the HKSAR?” as teaching material. The teacher asks students and their peers to discuss and complete the chart of “Permanent residents of the HKSAR” in Question 1, and Question 2 to understand that according to the Basic Law, Hong Kong permanent residents include Chinese citizens and persons not of Chinese nationality.</p>	15 minutes
	<p>5. Further Reading: Students read Appendix 2 “Know more: Power of interpretation of the Basic Law” after class, and realize that the power of interpretation of the Basic Law is vested in the Standing Committee of the National People’s Congress (NPCSC).</p>	
Homework:	Students complete “Homework 1: Hong Kong Special Administrative Region (HKSAR) travel documents” and learn about the HKSAR passport.	

Learning and Teaching Resources:	Activity 3; Worksheets 5-6; Appendices 1-2; Homework 1
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Lesson 5 (Fundamental rights and duties of Hong Kong residents)		
		Suggested lesson time
Enquiry Process:	<p>1. Set (jigsaw activity): The teacher uses “Activity 4: What rights and freedoms are safeguarded by the Basic Law?” to let students understand the rights and freedoms safeguarded by the Basic Law.</p> <p>The teacher first divides the whole class into group of four. Each group search the Basic Law website for certain aspects according to the teacher’s instructions. Those include civil and political aspects; personal freedom and related aspects; and aspects related to religious belief, property rights, social welfare and marriage, and cultural and education. Each group presents the discussion results and the teacher gives feedback on their presentation.</p> <p>Note: Students do not need to copy the contents of the Basic Law in full, and they only need to write down the key points.</p>	20 minutes
	<p>2. Interactive teaching: The teacher asks students to discuss and complete Questions 1 and 2 in “Worksheet 7: Voting age and age of candidacy”, so that students can understand the eligibility requirements for geographical constituency electors and those for being nominated as candidates for district councils and Legislative Council elections.</p>	10 minutes
	<p>3. Interactive teaching: The teacher asks students to discuss and complete Questions 1 and 2 in “Worksheet 8: Chinese Citizens who are permanent residents of the HKSAR” so that students can understand the requirements for holding different public offices. Students may search for relevant information on the Basic Law website.</p>	10 minutes
	<p>4. Further Reading: Students read Appendix 3 “Know more: Other public offices that can only be held by Chinese citizens who are permanent residents of the HKSAR (not involving elections)” after class, and learn that only Chinese citizens who are permanent residents of</p>	

	the HKSAR can hold some specific public offices.	
Learning and Teaching Resources:	Activity 4; Worksheets 7-8; Appendix 3	

Lesson 6 (The importance of respecting for and embodying rights and responsibilities as well as the rule of law (1))		
		Suggested lesson time
Enquiry Process:	<p>1. Set: The teacher asks students to discuss and complete “Activity 5: Basic Law and principles of the rule of law” so that students can understand the relationship between the Basic Law and the principles of the rule of law.</p>	5 minutes
	<p>2. Interactive teaching: The teacher asks students to read “Worksheet 9: The importance of the rule of law for development of society”, and discuss and complete Question 1 to Question 4 with their peers, so that students can understand the importance of abiding by the law to the rule of law, as well as that the exercise of rights and freedoms comes with it duties and responsibilities. The teacher then invites students to share some examples in daily life to illustrate that the exercise of rights and freedom comes with it duties and responsibilities. The teacher asks students to read Appendix 4 “Know more: The importance of the National Security Law in safeguarding national security” and helps them understand the importance of the National Security Law in safeguarding national security.</p>	20 minutes
	<p>3. Interactive teaching: The teacher asks students to read “Worksheet 10: The exercise of rights and freedoms carries with it duties and responsibilities”, and discuss and complete Questions 1 and 2 with their peers to let students understand some examples showing that exercising rights and freedoms carries with it duties and responsibilities.</p>	15 minutes
Homework:	Students should complete “Homework 2: International Covenant on Civil and Political Rights (ICCPR) and Hong Kong Bill of Rights” to understand the relationship between the ICCPR and the Hong Kong Bill of Rights, so as to understand how the HKSAR Government implements and protects citizens’ rights and freedoms stipulated in the ICCPR through the Hong Kong Bill of Rights.	
Learning and Teaching Resource:	Activity 5; Worksheets 9-10; Appendix 4; Homework 2	

Lesson 7 (The importance of respecting for and embodying rights and responsibilities as well as the rule of law (2))		
		Suggested lesson time
Enquiry Process:	<p>1. Interactive teaching: The teacher asks students to read “Worksheet 11: The Basic Law, the provisions of the ICCPR, and the Hong Kong Bill of Rights”, and discuss and complete Question 1 and Question 2 with their peers to let students know the relationship of the Basic Law, the ICCPR and the Hong Kong Bill of Rights, and recognize the exercise of rights and freedoms comes with it duties and responsibilities.</p>	20 minutes
	<p>2. Further Reading: Students read Appendix 5 “Know more: the application of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in Hong Kong” after class to understand the application of ICESCR in Hong Kong.</p>	
	<p>3. Interactive teaching: The teacher asks students to read “Worksheet 12: The importance of respecting and embodying individual’s and others’ rights and responsibilities, as well as the rule of law to development of society and common good”, and discuss and complete Questions 1 to 3 with their peers. The aim of this worksheet is to let students understand the principles and importance of the rule of law.</p>	20 minutes
Homework:	<p>Students complete “Homework 3: The dates when the PRC signed and ratified some international agreements”, and learn when the country signed and ratified the ICERD, the CEADW, the CRC and the CRPD. Thus, students can have a preliminary understanding of these international agreements, and prepare for further learning in Lessons 7 - 10.</p>	
Learning and Teaching Resource:	Worksheets 11-12; Appendix 5	

Lesson 8 (International agreements: Their application to the HKSAR)		
		Suggested lesson time
Enquiry Process:	1. Set: The teacher asks students to read Appendix 6 “Know More: United Nations Charter and related glossary” and let them understand that the United Nations is based on the principle of the sovereign equality of all its Members. Also, students will understand the meanings of treaties, conventions, acceptance and approval, accession, ratification, and reservation.	5 minutes
	2. Interactive teaching: The teacher asks students to read “Worksheet 13: Application to the HKSAR of some international agreements”, and discuss and complete Question 1 and Question 2 with their peers, so that students can understand how the ICERD, the CEDAW, the CRC, and the CRPD apply to the HKSAR.	10 minutes
	3. Group discussion and presentation: The teacher use “Worksheet 14: Examples of reservation clauses related to CRC, CEDAW, CRPD, and ICERD” to let students understand how these international agreements apply to the HKSAR. The teacher divides the whole class into groups of four. Each group selects one international agreement and discusses related issues. Students then report the discussion results to the whole class.	25 minutes
Learning and Teaching Resource:	Worksheets 13-14; Appendix 6	

Lesson 9 (Rights of the Child and related restrictions)		
		Suggested lesson time
Enquiry Process:	1. Set: The teacher asks students to discuss and complete “Activity 6: Rights of the Child”, so that students can understand the key points of the rights of the child.	10 minutes
	2. Interactive teaching: The teacher instructs students to read “Worksheet 15: Rights of the Child and related restrictions”, and discuss and complete Question 1 to Question 6 with their peers, so that students can further understand: <ul style="list-style-type: none"> • the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth; • the child shall the have the right to freedom of expression, association and peaceful assembly; the exercise of these rights may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: for respect of the rights and freedoms or reputations of others; or for the protection of national security or of public order (ordre public), or of public health or morals; • a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community; and • the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. 	30 minutes
Learning and Teaching Resource:	Activity 6; Worksheets 15	

Lesson 10 (Rights and duties related to the elimination of prejudice and discrimination)		
		Suggested lesson time
Enquiry Process:	1. Set: The teacher divides the whole class into groups of four, and asks students to complete “Activity 7: Gender difference in labour force participation rate” Students will be aware of the gender gap in labour participation rate around the world.	4 minutes
	2. Interactive teaching: The teacher asks students to read “Worksheet 16: Rights and duties related to the elimination of prejudice and discrimination (1)”, and discuss and complete Question 1 to Question 2 with their peers to let students understand the importance of eliminating gender-related prejudice and discrimination.	9 minutes
	3. Interactive teaching: The teacher asks students to read “Worksheet 17: Rights and duties related to the elimination of prejudice and discrimination (2)”, and discuss and complete Question 1 and Question 2 with peers to let students understand the importance of eliminating prejudice and discrimination related to race and disability.	9 minutes
	4. Interactive teaching: The teacher asks students to read “Worksheet 18: Rights and duties related to the elimination of prejudice and discrimination (3)”, and discuss and complete Question 1 to Question 3 with their peers, so that students can understand some of Hong Kong’s initiatives in promoting diversity and inclusiveness.	8 minutes
Learning and Teaching Resource:	Activity 7; Worksheets 16-18	

**Module 1.4: Rights and Duties
(Lesson 1)
Learning and Teaching Materials**

The Constitution: Fundamental rights and obligations of citizens (1)

Activity 1: The Constitution is the fundamental law of the state

Watch the following video clip “The Constitution is the fundamental law of the state”, and then answer the questions.



The Constitution is the fundamental law of the state (Length 2 minutes 27 seconds) (Chinese version only)

<https://chinacurrent.com/education/article/2021/11/22766.html>

1. How does the voice over of the video clip describe the status of the Constitution?

The Constitution is the fundamental law of the state, with supreme legal status and is important sign and symbol of the state.

2. The voice over of the video clip mentioned that where does the Constitution have the highest legal status, authority and power?

The Constitution has the highest legal status, authority and power in the whole country, including Hong Kong Special Administrative Region.

3. The voice over of the video clip mentioned that the national flag is the symbol and sign of the People’s Republic of China. What attitudes should every citizen uphold towards the national flag?

Every citizen should respect and cherish the national flag.

Source 1: Paragraph 13, Preamble of the Constitution

This Constitution affirms, in legal form, the achievements of the struggles of the Chinese people of all ethnic groups and stipulates the fundamental system and task of the state. It is the fundamental law of the state and has supreme legal force. The people of all ethnic groups, all state organs and armed forces, all political parties and social organizations, and all enterprises and public institutions in the country must treat the Constitution as the fundamental standard of conduct; they have a duty to uphold the sanctity of the Constitution and ensure its compliance.

Source 2: Article 33 of the Constitution

All persons holding the nationality of the People's Republic of China are citizens of the People's Republic of China.

All citizens of the People's Republic of China are equal before the law.

The state shall respect and protect human rights.

Every citizen shall enjoy the rights prescribed by the Constitution and the law and must fulfil the obligations prescribed by the Constitution and the law.

1. Answer the following questions according to Source 1.

(a) What is affirmed by the Constitution? What is stipulated by the Constitution?

The Constitution affirms, in legal form, the achievements of the struggles of the Chinese people of all ethnic groups. It stipulates the fundamental system and task of the state.

(b) What is the status of the Constitution? What kind of legal force does it have?

The Constitution is the fundamental law of the state. It has supreme legal force.

- (c) How must the people of all ethnic groups, all state organs and armed forces, all political parties and social organizations, and all enterprises and public institutions in the country treat the Constitution? What kind of duty do they have towards the Constitution?

They must treat the Constitution as the fundamental standard of conduct. They have a duty to uphold the sanctity of the Constitution and ensure its compliance.

2. Answer the following questions according to Source 2.

- (a) Who are citizens of the People's Republic of China? What status do they have before the law?

All persons holding the nationality of the PRC are citizens of the PRC. They are equal before the law.

- (b) How shall the state treat human rights?

The state shall respect and protect human rights.

- (c) Every citizen shall enjoy the rights prescribed by the Constitution and the law. At the same time, what should be fulfilled by every citizen?

Every citizen must fulfil the obligations prescribed by the Constitution and the law.

Worksheet 1: The Constitution: Fundamental rights and obligations of citizens (1)

Read Source 1 to Source 2 and then answer the questions.

Source 1: Articles 24-36 and Article 41 of the Constitution

Article 34

All citizens of the People's Republic of China who have reached the age of 18, regardless of ethnicity, race, gender, occupation, family background, religious belief, level of education, property status or length of residence, shall have the right to vote and stand for election; persons deprived of political rights in accordance with law shall be an exception.

Article 35

Citizens of the People's Republic of China shall enjoy freedom of speech, the press, assembly, association, procession and demonstration.

Article 36

Citizens of the People's Republic of China shall enjoy freedom of religious belief. No state organ, social organization or individual shall coerce citizens to believe in or not to believe in any religion, nor shall they discriminate against citizens who believe in or do not believe in any religion.

The state shall protect normal religious activities. No one shall use religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the state's education system.

Religious groups and religious affairs shall not be subject to control by foreign forces.

Article 41

Citizens of the People's Republic of China shall have the right to criticize and make suggestions regarding any state organ or state employee, and have the right to file with relevant state organs complaints, charges or reports against any state organ or state employee for violations of the law or dereliction of duty, but they shall not fabricate or distort facts to make false accusations.

The state organ concerned must ascertain the facts concerning the complaints, charges or reports made by citizens and take responsibility for their handling. No one shall suppress such complaints, charges or reports or take retaliatory action.

Persons who have suffered losses resulting from infringement of their civil rights by any state organ or state employee shall have the right to receive compensation in accordance with the provisions of law.

Source 2: Articles 37-40 of the Constitution

Article 37

The personal freedom of citizens of the People's Republic of China shall not be violated.

No citizen shall be arrested unless with the approval or by the decision of a people's procuratorate or by the decision of a people's court, and arrests must be made by a public security organ.

Unlawful detention, or the unlawful deprivation or restriction of a citizen's personal freedom by other means, is prohibited; the unlawful search of a citizen's person is prohibited.

Article 38

The personal dignity of citizens of the People's Republic of China shall not be violated. It is prohibited to use any means to insult, libel or falsely accuse citizens.

Article 39

The homes of citizens of the People's Republic of China are inviolable. The unlawful search of or unlawful intrusion into a citizen's home is prohibited.

Article 40

Freedom and confidentiality of correspondence of citizens of the People's Republic of China shall be protected by law. Except in cases necessary for national security or criminal investigation, when public security organs or procuratorial organs shall examine correspondence in accordance with procedures prescribed by law, no organization or individual shall infringe on a citizen's freedom and confidentiality of correspondence for any reason.

1. Answer the following questions according to Source 1.

- (a) As stipulated in Article 34 of the Constitution, what rights shall all citizens of the PRC who have reached the age of 18, regardless of ethnicity, race, gender, occupation, family background, religious belief, level of education, property status or length of residence have?

They shall have the right to vote and stand for election.

- (b) What kinds of freedom that shall be enjoyed by citizens of the PRC are stipulated in Article 35 and Article 36(1) of the Constitution respectively?

Article 35 of the Constitution stipulates that citizens of the PRC shall enjoy freedom of speech, the press, assembly, association, procession and demonstration. Article 36(1) of the Constitution stipulates that citizens of the PRC shall enjoy freedom of religious belief.

- (c) As stipulated in Article 41(1) of the Constitution, what right shall citizens of the PRC have with respect to any state organ or state employee for violations of the law or dereliction of duty? What are the relevant restrictions?

They have the right to file with relevant state organs complaints, charges or reports against any state organ or state employee for violations of the law or dereliction of duty. The relevant restrictions are that they shall not fabricate or distort facts to make false accusations.

2. Answer the following questions according to Source 2.

- (a) As stipulated in Article 37(1), Article 38 and Article 39 of the Constitution, what shall not be violated / are inviolable?

Article 37(1) stipulates that the personal freedom of citizens of the PRC shall not be violated. Article 38 stipulates that the personal dignity of citizens of the PRC shall not be violated. Article 39 stipulates that the homes of citizens of the PRC are inviolable.

- (b) What are prohibited in Article 37(3), Article 38 and Article 39 of the Constitution?

Article 37(3) stipulates that unlawful detention, or the unlawful deprivation or restriction of a citizen's personal freedom by other means, is prohibited; the unlawful search of a citizen's person is prohibited. Article 38 stipulates that it is prohibited to use any means to insult, libel or falsely accuse citizens. Article 39 stipulates that the unlawful search of or unlawful intrusion into a citizen's home is prohibited.

- (c) Article 40 of the Constitution stipulates that freedom and confidentiality of correspondence of citizens of the PRC shall be protected by law. No organization or individual shall infringe on a citizen's freedom and confidentiality of correspondence for any reason, but there are exceptions. What are the exceptions?

The exceptions are cases necessary for national security or criminal investigation, when public security organs or procuratorial organs shall examine correspondence in accordance with procedures prescribed by law.

**Module 1.4: Rights and Duties
(Lesson 2)
Learning and Teaching Materials:**

**The Constitution: Fundamental rights and obligations of citizens (2)
Worksheet 2: The Constitution: Fundamental rights and obligations
of citizens (2)**

Read Source 1 to Source 3 and then answer the questions.

Source 1: Articles 42-43 of the Constitution

Article 42

Citizens of the People's Republic of China shall have the right and the obligation to work.

The state shall, in various ways, create employment opportunities, strengthen worker protections, improve working conditions and, based on the development of production, increase remuneration for work and work-related benefits.

Work is an honorable duty for every citizen who is able to work. All working people in state owned enterprises and in urban and rural collective economic organizations should approach their own work as masters of their country. The state shall encourage socialist work contests and commend and award model workers and advanced workers. The state shall encourage citizens to participate in voluntary work.

The state shall provide necessary pre-employment training for its citizens.

Article 43

Working people in the People's Republic of China shall have the right to rest.

The state shall develop rest and recuperation facilities for working people and stipulate systems for employee working hours and vacations.

Source 2: Articles 46-47 of the Constitution

Article 46

Citizens of the People's Republic of China shall have the right and the obligation to receive education.

The state shall foster the all-round moral, intellectual and physical development of young adults, youths and children.

Article 47

Citizens of the People's Republic of China shall enjoy the freedom to engage in scientific research, literary and artistic creation, and other cultural pursuits. The state shall encourage and assist creative work that is beneficial to the people of citizens engaged in education, science, technology, literature, art and other cultural activities.

Source 3: Articles 48-49 of the Constitution

Article 48

Women in the People's Republic of China shall enjoy equal rights with men in all spheres of life: political, economic, cultural, social and familial.

The state shall protect the rights and interests of women, implement a system of equal pay for equal work, and train and select female officials.

Article 49

Marriage, families, mothers and children shall be protected by the state.

Both husband and wife shall have the obligation to practice family planning.

Parents shall have the obligation to raise and educate their minor children; adult children shall have the obligation to support and assist their parents.

Infringement of the freedom of marriage is prohibited; mistreatment of senior citizens, women and children is prohibited.

1. Answer the following questions according to Source 1.

(a) As stipulated in Article 42(1) of the Constitution, what right and obligation shall citizens of the PRC have?

They shall have the right and the obligation to work.

(b) As stipulated in Article 42(2) of the Constitution, how shall the state promote workers' benefits?

The state shall, in various ways, create employment opportunities, strengthen worker protections, improve working conditions and, based on the development of production, increase remuneration for work and work-related benefits.

(c) As stipulated in Article 43(1) of the Constitution, what right shall the working people in the PRC shall have?

They shall have the right to rest.

2. Answer the following questions according to Source 2.

- (a) As stipulated in Article 46(1) of the Constitution, what right and obligation shall citizens of the PRC have?

They shall have the right and the obligation to receive education.

- (b) As stipulated in Article 46(2) of the Constitution, the state shall foster what kind of development of young adults, youths and children?

The state shall foster the all-round moral, intellectual and physical development of them.

- (c) As stipulated in Article 47 of the Constitution, citizens of the PRC shall enjoy what kind of freedom?

They shall enjoy the freedom to engage in scientific research, literary and artistic creation, and other cultural pursuits.

3. Answer the following questions according to Source 3.

- (a) As stipulated in Article 48(1) of the Constitution, in what aspects shall women in the PRC enjoy equal rights with men?

Women in the PRC shall enjoy equal rights with men in all spheres of life: political, economic, cultural, social and familial.

- (b) Article 49(1) stipulates that marriage, families, mothers and children shall be protected by whom?

They shall be protected by the state.

- (c) As stipulated in Article 49(3) of the Constitution, what obligations shall parents and adult children have respectively?

Parents shall have the obligation to raise and educate their minor children; adult children shall have the obligation to support and assist their parents.

- (d) What are prohibited in Article 49(4) of the Constitution?

Infringement of the freedom of marriage is prohibited; mistreatment of senior citizens, women and children is prohibited.

Worksheet 3: The Constitution: Fundamental rights and obligations of citizens (3)

Read Source 1 and then answer the questions.

Source 1: Articles 52-56 of the Constitution

Article 51

When exercising their freedoms and rights, citizens of the People's Republic of China shall not undermine the interests of the state, society or collectives, or infringe upon the lawful freedoms and rights of other citizens.

Article 52

Citizens of the People's Republic of China shall have the obligation to safeguard national unity and the solidarity of all the country's ethnic groups.

Article 53

Citizens of the People's Republic of China must abide by the Constitution and the law, keep state secrets, protect public property, observe discipline in the workplace, observe public order, and respect social morality.

Article 54

Citizens of the People's Republic of China shall have the obligation to safeguard the security, honor and interests of the motherland; they must not behave in any way that endangers the motherland's security, honor or interests.

Article 55

It is the sacred duty of every citizen of the People's Republic of China to defend the motherland and resist aggression.

It is an honorable obligation of citizens of the People's Republic of China to perform military service or join the militia in accordance with law.

Article 56

Citizens of the People's Republic of China shall have the obligation to pay taxes in accordance with law.

1. Answer the following questions according to Source 1.

- (a) As stipulated in Article 51 of the Constitution, what shall not be undermined or infringed upon when citizens of the PRC are exercising their freedoms and rights?

Citizens of the PRC shall not undermine the interests of the state, society or collectives, or infringe upon the lawful freedoms and rights of other citizens.

(b) As stipulated in Article 52 of the Constitution, what obligation shall citizens of the PRC have?

They shall have the obligation to safeguard national unity and the solidarity of all the country's ethnic groups.

(c) As stipulated in Article 53 of the Constitution, what must citizens of the PRC (i) abide by; (ii) keep; (iii) protect; (iv) observe; and (v) respect?

*(i) They must abide by the Constitution and the law.
(ii) They must keep state secrets.
(iii) They must protect public property.
(iv) They must observe discipline in the workplace and public order.
(v) They must respect social morality.*

(d) As stipulated in Article 54 of the Constitution, (i) what obligation shall citizens of the PRC have? (ii) what must not be the behavior of citizens of the PRC?

*(i) They shall have the obligation to safeguard the security, honor and interests of the motherland.
(ii) They must not behave in any way that endangers the motherland's security, honor or interests.*

(e) As stipulated in Article 55(1) of the Constitution, what is the sacred duty of every citizen of the PRC?

The sacred duty of every citizen of the PRC is to defend the motherland and resist aggression.

- (f) As stipulated in Article 55(2) of the Constitution, what is an honorable obligation of citizens of the PRC?

An honorable obligation of citizens of the PRC is to perform military service or join the militia in accordance with law.

- (g) As stipulated in Article 56 of the Constitution, what obligation shall citizens of the PRC have?

Citizens of the PRC shall pay taxes in accordance with law.

Module 1.4: Rights and Duties
(Lesson 3)
Learning and Teaching Materials:

Under the principle of “one country, two systems” and according to the Constitution, the Basic Law makes a special provision with respect to rights and duties

Activity 2: The Constitution and the Basic Law jointly form the constitutional basis of the HKSAR

Read Source 1 to Source 4 and then answer the questions.

Source 1:

- The NPC decided to establish the HKSAR in accordance with Article 31 and Article 62(14) of the Constitution and enacted the Basic Law in accordance with the Constitution.
- It is a common practice in all countries that each state has its own sovereignty and one constitution. The HKSAR is a part of the People’s Republic of China, so the national Constitution is also the Constitution of the Special Administrative Region.
- The Constitution is the mother law of the Basic Law and it precedes the Basic Law. The Constitution is the legislative basis of the Basic Law.
- The national Constitution is the constitutional basis of the Basic Law of the HKSAR.

Source: Translated from 教育局 (2020 年), 《憲法》和《基本法》海報資源套 - 《憲法》和《基本法》, https://www.edb.gov.hk/tc/curriculum-development/kla/pshe/basic-law-education/cble_wallcharts/index.html

Source 2: Chapter IV - The National Flag, National Anthem, National Emblem and the Capital of the Constitution

Article 141

The national flag of the People’s Republic of China is a red flag with five stars. The national anthem of the People’s Republic of China is the *March of the Volunteers*.

Article 142

The national emblem of the People’s Republic of China consists of an image of Tiananmen Gate in the center illuminated by five stars and encircled by spikes of grain and a cogwheel.

Article 143

The capital of the People’s Republic of China is Beijing.

Source 3: Article 10 of the Basic Law

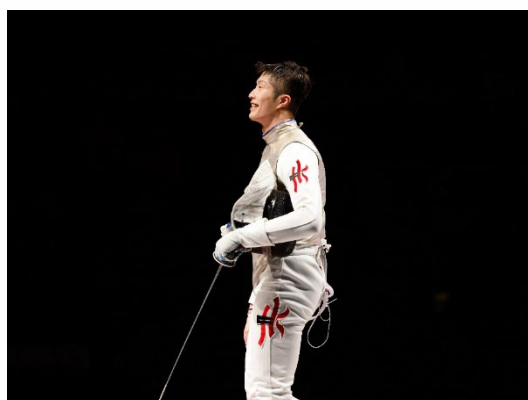
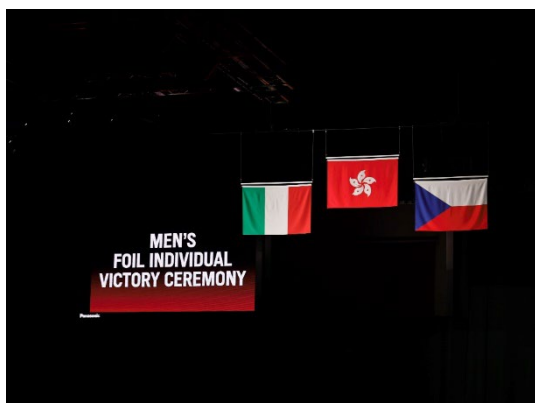
Article 10

Apart from displaying the national flag and national emblem of the People's Republic of China, the Hong Kong Special Administrative Region may also use a regional flag and regional emblem.

The regional flag of the Hong Kong Special Administrative Region is a red flag with a bauhinia highlighted by five star-tipped stamens.

The regional emblem of the Hong Kong Special Administrative Region is a bauhinia in the centre highlighted by five star-tipped stamens and encircled by the words "Hong Kong Special Administrative Region of the People's Republic of China" in Chinese and "HONG KONG" in English.

Source 4:



In 2021, CHEUNG Ka-long of the Hong Kong, China delegation in the Tokyo 2020 Olympic Games attended the medal ceremony for the Men's Foil Individual.

Copyright: Sports Federation and Olympic Committee of Hong Kong, China (SF&OC)

1. Answer the following questions according to Source 1.

(a) Why is the national Constitution also the Constitution of the HKSAR?

It is a common practice in all countries that each state has its own sovereignty and one constitution. The HKSAR is a part of the People's Republic of China, so the national Constitution is also the Constitution of the Special Administrative Region.

(b) In accordance with what did the NPC enact the Basic Law?

The NPC enacted the Basic Law in accordance with the Constitution.

(c) What kinds of basis is the Constitution to the Basic Law?

The Constitution is the legislative basis and the constitutional basis of the Basic Law.

2. Answer the following questions according to Source 2.

(a) As stipulated in Article 141(1) of the Constitution, what is the national flag of the PRC?

It is a red flag with five stars.

(b) As stipulated in Article 141(2) of the Constitution, what is the national anthem of the PRC?

It is the March of the Volunteers.

(c) As stipulated in Article 142 of the Constitution, what does the national emblem of the PRC consist of?

It consists of an image of Tiananmen Gate in the center illuminated by five stars and encircled by spikes of grain and a cogwheel.

(d) As stipulated in Article 143 of the Constitution, where is the capital of the PRC?

The capital of the PRC is Beijing.

3. Among the 160 articles of the Basic Law, apart from Article 10(1) that mentions the national flag and the national emblem, there are no articles detailing the information of the national flag, the national anthem, the national emblem and the capital. According to Source 3, Article 10(1) of the Basic Law stipulates that apart from displaying the national flag and the national emblem of the PRC, what may the HKSAR also use?

The HKSAR may also use a regional flag and a regional emblem.

4. According to Source 4 and as far as you know, after CHEUNG Ka-long of the Hong Kong, China delegation in the Tokyo 2020 Olympic Games won the gold medal in the Men's Foil Individual, (i) what flag was hoisted and (ii) what song was played during the medal ceremony?

*(i) The regional flag was hoisted and
(ii) the national anthem was played during the medal ceremony.*

Summary

In general, the Constitution stipulates the national flag, the national anthem, the national emblem and the capital in Chapter IV and the stipulations are applicable to the whole country. Thus, the Basic Law does not make the same stipulations in its articles. It only makes a special provision in Article 10(1): “Apart from displaying the national flag and national emblem of the People's Republic of China, the Hong Kong Special Administrative Region may also use a regional flag and regional emblem.” In Article 10(2) and (3), it stipulates the regional flag and the regional emblem of the HKSAR.

Worksheet 4: Under the principle of “one country, two systems” and according to the Constitution, the Basic Law makes a special provision with respect to rights and duties

Read Source 1 to Source 5 and then answer the questions.

Source 1: Article 11 of the Basic Law

In accordance with Article 31 of the Constitution of the People’s Republic of China, the systems and policies practised in the Hong Kong Special Administrative Region, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of this Law.

No law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law.

Source 2: Article 23 of the Basic Law

The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People’s Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.

Source 3:

- Article 23 of the Basic Law is a provision on the relationship between the Central Authorities and the HKSAR. It stipulates that Hong Kong “shall enact laws on its own” to prohibit seven types of acts and activities that endanger national security. It is an obligatory provision rather than a clause on delegation of power. It demonstrates the confidence the Central Authorities have in the HKSAR, but this act of faith does not mean that the Central Authorities have given up their power in national security matters which are under their purview.
- In 2003, the HKSAR Government introduced the National Security (Legislative Provisions) Bill to implement Article 23 of the Basic Law, but to no avail. Since then, enactment of local legislation on national security has been severely smeared and demonised by some people with ulterior motives, making it difficult for the HKSAR Government to commence the relevant work. As a result, Hong Kong has long been “defenceless” in terms of safeguarding national security and hence facing considerable risks.

Source: *The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*, HKSAR Government (2020).

Source 4: Article 14 of the Basic Law

The Central People's Government shall be responsible for the defence of the Hong Kong Special Administrative Region.

The Government of the Hong Kong Special Administrative Region shall be responsible for the maintenance of public order in the Region.

Military forces stationed by the Central People's Government in the Hong Kong Special Administrative Region for defence shall not interfere in the local affairs of the Region. The Government of the Hong Kong Special Administrative Region may, when necessary, ask the Central People's Government for assistance from the garrison in the maintenance of public order and in disaster relief.

In addition to abiding by national laws, members of the garrison shall abide by the laws of the Hong Kong Special Administrative Region.

Expenditure for the garrison shall be borne by the Central People's Government.

Source 5: Article 106 of the Basic Law

Article 106

The Hong Kong Special Administrative Region shall have independent finances.

The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes, and they shall not be handed over to the Central People's Government.

The Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region.

1. According to Source 1, Article 11 of the Basic Law makes a special provision: In accordance with Article 31 of the Constitution of the People's Republic of China, the system for safeguarding the fundamental rights and freedoms of its residents, and the relevant policies, shall be based on what?

They shall be based on the provisions of the Basic Law.

2. (a) Source 2 lists Article 23 of the Basic Law. It is similar to which articles of the Constitution listed in Source 1 in Worksheet 3? (You only need to list the numbers of relevant articles.)

Article 51, Article 52, Article 53 and Article 54 of the Constitution.

- (b) According to Article 23 of the Basic Law in Source 3, what shall Hong Kong do to prohibit seven types of acts and activities that endanger national security?

Hong Kong shall enact laws on its own to prohibit seven types of acts and activities that endanger national security.

- (c) According to Source 3, what kind of provision is Article 23 of the Basic Law?

It is an obligatory provision.

- (d) Source 3 indicates that “Hong Kong has long been ‘defenceless’ in terms of safeguarding national security and hence facing considerable risks”. According to Appendix 4 in Worksheet 5, how do the Central Authorities plug the loophole?

The National Security Law has been enacted by the Central Authorities at the state level to plug the loophole in national security in Hong Kong.

3. According to Source 1 in Worksheet 3, Paragraph 2 of Article 55 of the Constitution points out that it is an honorable obligation of citizens of the PRC to perform military service or join the militia in accordance with law. However, according to Source 4, why do Hong Kong residents not need to perform military service?

The Central People’s Government shall be responsible for the defence of the HKSAR. Military forces are stationed by the Central People’s Government and members of the Garrison come from the Mainland. Therefore, Hong Kong citizens do not need to perform military service.

4. With reference to Source 1 in Worksheet 11, Article 56 of the Constitution stipulates that “Citizens of the People’s Republic of China shall have the obligation to pay taxes in accordance with law.” According to Source 5 of this Worksheet, why are Hong Kong residents not required to pay taxes to the country?

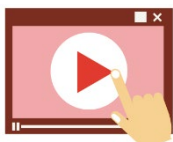
It is because the Central People’s Government shall not levy taxes in the HKSAR.

**Module 1.4: Rights and Duties
(Lesson 4)
Learning and Teaching Materials**

Who are Hong Kong residents?

Activity 3: Rights and duties

Watch the following video clip about rights and duties, and then answer the questions.



Rights and Duties (Length 2 minutes 46 seconds) (Chinese version only)

【Please go to the following link to download the PowerPoint file (II. Learning and Teaching Resources-4. 香港居民的基本權利和義務) and play the video embedded in slide 4】:

Education Bureau Homepage>Curriculum Development>Key Learning Areas>Personal, Social and Humanities Education Section>Basic Law Education>Constitution and the Basic Law



<https://www.edb.gov.hk/tc/curriculum-development/kla/pshe/basic-law-education/constitution-basic-law/index.html>

2. Which domain does Chapter III of the Basic Law mainly stipulate?

Fundamental rights and duties of Hong Kong residents.

3. What rights and freedoms Hong Kong residents shall have from the examples of video clips?

	<p><i>Freedom of speech</i></p>
	<p><i>Everyone is equal before the law</i></p>

	<p><i>The right to vote, the right to stand for election</i></p>
	<p><i>Freedom of the press</i></p>

4. Among the rights and freedoms mentioned in the answer to Question 2, which rights and freedoms shall only permanent residents of the Hong Kong Special Administrative Region have?

The right to vote, the right to stand for election.

5. As pointed out in the video clip, who has the obligation to comply with the laws in force in Hong Kong ?

Hong Kong residents and other persons in Hong Kong.

Worksheet 5: Who are Hong Kong residents?

Read Source 1 and then answer the questions.

Source 1: Article 24 of the Basic Law

Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents.

The permanent residents of the Hong Kong Special Administrative Region shall be:




- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);
- (4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;
- (5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and
- (6) Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.



The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.

The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.

Source: Basic Law website

1. There are people of different backgrounds, ethnicities and cultural backgrounds living in Hong Kong. Please refer to Source 1, identify the identity of the people below and circle the correct answer:

 <p>Uncle Chan, a retiree</p>	<p>In 1950, I came to Hong Kong from the Mainland. I obtained an identity card when I arrived Hong Kong. After that, I have been living and working in Hong Kong and established a family. Now, I am retired and always think Hong Kong is my home.</p>	<p><i>Hong Kong permanent resident</i> ✓ Hong Kong non-permanent resident / Non-Hong Kong resident</p>
 <p>Ms. He from Fujian</p>	<p>My parents were born and grew up in Fujian. I grew up in Fujian. Seven years ago, my father went to Hong Kong to work alone. He became a Hong Kong permanent resident this year. Now, I have just obtained a Two-Way Permit to Hong Kong to visit my father and gather with him.</p>	<p>Hong Kong permanent resident / Hong Kong non-permanent resident / <i>Non-Hong Kong resident</i></p>
 <p>Mr. Tony, a foreign tourist</p>	<p>I am a tourist from Singapore. I love to travel around the world to learn about different cultures in different places. This year, I planned to stay in Hong Kong for two months to experience the integration of Chinese and Western cultures.</p>	<p>Hong Kong permanent resident / Hong Kong non-permanent resident / <i>Non-Hong Kong resident</i></p>

 <p>Li, a university student</p>	<p>I was born in Hong Kong, and I grew up here since I was small. This year, I am studying at The University of Hong Kong. My dream is to become an administrative officer of the Hong Kong Special Administrative Region Government and serve the Hong Kong people.</p>	<p><i>Hong Kong permanent resident</i> ✓ Hong Kong non-permanent resident ✓ Non-Hong Kong resident</p>
 <p>Mr. Singh, a software designer</p>	<p>I am a computer software designer. Three years ago, I was transferred from the head office in India to the Hong Kong branch. At first, I did not get used to the rapid pace of life in Hong Kong, but now I have gradually adapted to it.</p>	<p>Hong Kong permanent resident ✓ <i>Hong Kong non-permanent resident</i> ✓ Non-Hong Kong resident</p>

2. According to Source 1, what are the major differences between permanent residents and non-permanent residents?

Permanent residents have the right of abode, while non-permanent residents do not have the right of abode.

3. What kind of residents do you think foreign domestic helpers belong to? Do they have the right of abode in Hong Kong?

They are non-permanent residents, so they do not have the right of abode in Hong Kong.



Know more: Do foreign domestic helpers have the right of abode in Hong Kong?

According to Article 24 (2)(4) of the Basic Law, Hong Kong permanent resident, including a person not of Chinese nationality who has entered Hong Kong with a valid travel document, has ordinarily resided in Hong Kong for a continuous period of not less than seven years and has taken Hong Kong as his/her place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region (HKSAR). Then, do foreign domestic helpers who have resided in Hong Kong for a continuous period of not less than seven years have the right of abode in Hong Kong?

In a civil appeal, the Court of Final Appeal finally ruled that the foreign domestic helpers are not eligible to apply for permanent residency. The following are the relevant considerations of the Court of Final Appeal in writing the judgment:

The nature of [foreign domestic helpers] FDHs' residence in Hong Kong is highly restrictive. Permission for a FDH to enter Hong Kong is tied to employment solely as a domestic helper with a specific employer with whom the FDH must reside under a specified contract. The FDH is obliged to return to the country of origin at the end of the contract and is told from the outset that admission is not for the purposes of settlement and that dependents cannot be brought to reside in Hong Kong...

Source:

Court of Final Appeal, Final Appeal Nos. 19 & 20 of 2012 (Civil), *Vallejos Evangeline Banao v. Commissioner of Registration and Registration of Persons Tribunal, Domingo Daniel L. v. Commissioner of Registration and Registration of Persons Tribunal*

Press summary, Date of Judgment: 25 March 2013.

https://legalref.judiciary.hk/doc/judg/html/vetted/other/en/2012/FACV000019_2012_files/FACV000019_2012ES.htm.

Worksheet 6: Who are the permanent residents of the HKSAR?

Refer to Source 1 in Worksheet 5 and Source 1 below, and then answer the questions.

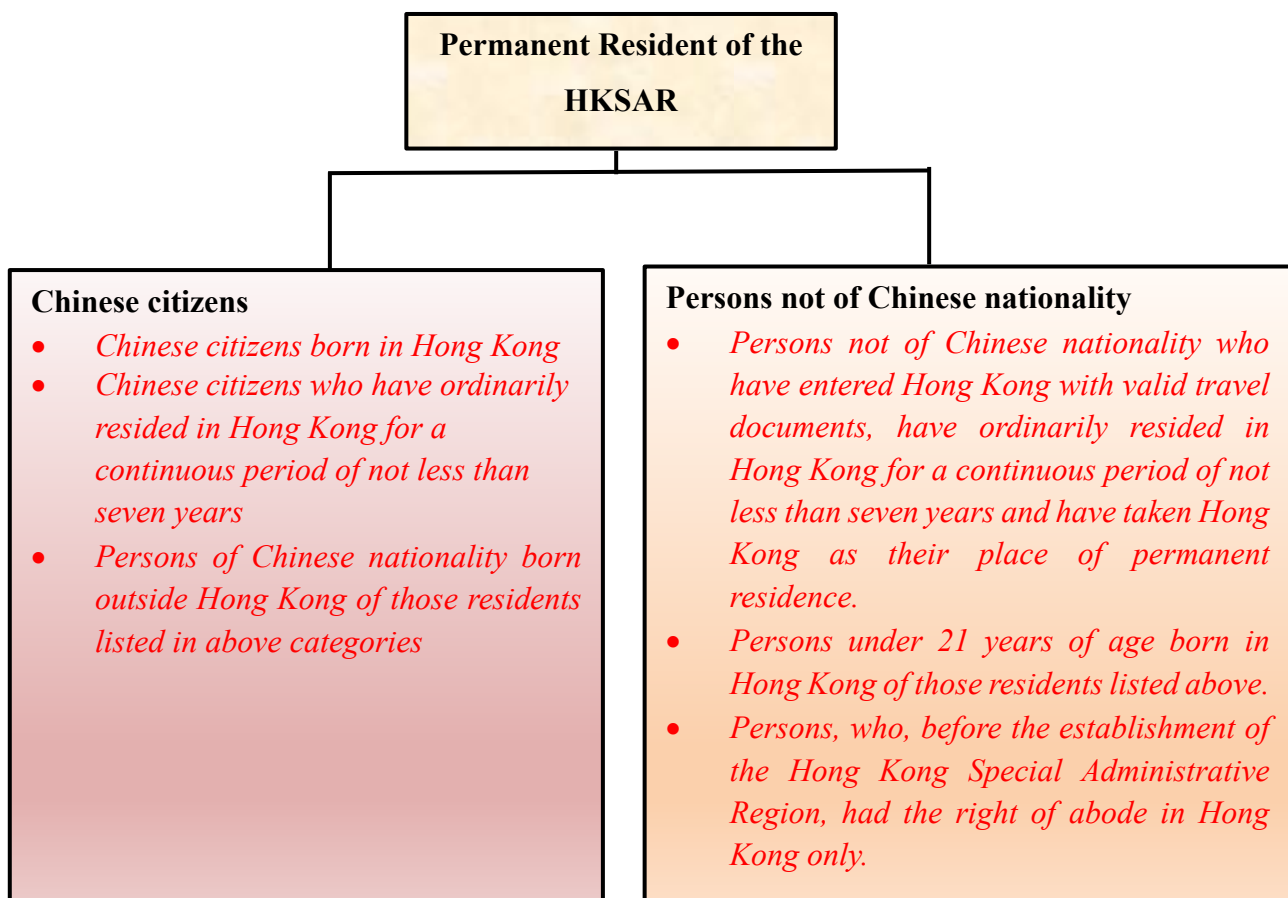
Source 1: The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China

...The provisions of category (3) regarding the “persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2)” mean both parents of such persons, whether born before or after the establishment of the Hong Kong Special Administrative Region, or either of such parents must have fulfilled the condition prescribed by category (1) or (2) of Article 24(2) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China at the time of their birth...

Source: The interpretation by the Standing Committee of the National People’s Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, (Adopted at the Tenth Session of the Standing Committee of the Ninth National People’s Congress on 26 June 1999).

https://www.basiclaw.gov.hk/filemanager/content/en/files/basiclawtext/basiclawtext_doc19.pdf

1. Complete the table below according to Source 1 in Worksheet 5 and Source 1 above.



2. Under what conditions, children of persons of Chinese nationality born outside Hong Kong are also Hong Kong permanent residents?

If both parents or either of the parents of these children are permanent residents of Hong Kong at the time of their birth, these children shall be Hong Kong permanent residents.



Know more: Power of interpretation of the Basic Law

Source 1 of Worksheet 6 mentioned that the Standing Committee of the National People's Congress (NPCSC) has made an interpretation of the provisions of the Basic Law.

According to the Constitution and the Basic Law, the power of interpretation of the Basic Law shall be vested in the NPCSC. The following is the content of the relevant provisions:

Subparagraph (4) of Article 67 of the Constitution

(The Standing Committee of the National People's Congress shall exercise the following functions and powers:)

(4) interpreting laws

Article 158(1) of the Basic Law

The power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress.

The Court of Final Appeal has stated in different judgements that the NPCSC has the power to interpret the Basic Law according to the Constitution and the Basic Law. Below is one of them:

...Under the constitutional framework of the Hong Kong Special Administrative Region, the Basic Law is a national law of the PRC, having been enacted by the National People's Congress pursuant to Article 31 of the Constitution of the PRC. The NPCSC's power to interpret the Basic Law derives from Article 67(4) of the Constitution of the PRC and is provided for expressly in the Basic Law itself in BL158(1) and is in general and unqualified terms. The exercise of interpretation of the Basic Law under PRC law is one conducted under a different system of law to the common law system in force in the Hong Kong Special Administrative Region, and includes legislative interpretation which can clarify or supplement laws. An interpretation of the Basic Law issued by the NPCSC is binding on the courts of the Hong Kong Special Administrative Region...

Source: Reasons for Determination of the Final Court Appeal on the Application for leave to Appeal by Sixtus Leung Chung-hang and Yau Wai-ching, Date of Reasons for Determination: 1 September 2017.

https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=111122



Homework 1: Hong Kong Special Administrative Region (HKSAR) travel document

Try to find a passport which is issued by the HKSAR Government for Hong Kong residents travelling abroad and complete the table below according to the relevant information in the document:

Full name on Front Cover	<i>Hong Kong Special Administrative Region, People's Republic of China Passport</i>
Words on inside front cover	<i>The Ministry of Foreign Affairs of the People's Republic of China requests all civil and military authorities of foreign countries to allow the bearer of this passport to pass freely and afford assistance in case of need.</i>

In worksheet 6, you have already recognised that HKSAR permanent residents include both Chinese citizens and persons not of Chinese nationality. In first part of this exercise, you have also found some information about Hong Kong Administrative Region People's Republic of China Passport (HKSAR Passport). Answer the following questions based on what you have learned.

1. Under the authorization of the Central People's Government according to Article 154 (1) of the Basic Law, who can obtain a HKSAR Passport issued by the HKSAR Government?

Chinese citizens who hold permanent identity cards of the HKSAR.

2. Visit the Immigration Department of the HKSAR Government website to find out the 3 eligibility requirements for the HKSAR passport. (Website of the Immigration Department of the HKSAR.

https://www.immd.gov.hk/eng/service/travel_document/apply_for_hksar_passport.html)

- *a Chinese citizen;*
- *a permanent resident of the HKSAR; and*
- *a holder of a valid Hong Kong permanent identity card*

**Module 1.4: Rights and Duties
(Lesson 5)
Learning and Teaching Materials**

Fundamental rights and duties of Hong Kong residents

Activity 4: What rights and freedoms are safeguarded by the Basic Law?

“The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law” as prescribed in Article 4 of the Basic Law. Most of these fundamental rights are specified in the chapter III, while some provisions are also set out in other chapters.

Students work in groups. Click on the Basic Law website (<https://www.basiclaw.gov.hk/en/basiclawtext/index.html>) to find out some of the rights and freedoms granted to Hong Kong residents under the Basic Law in different fields. Each group will work on one of the following aspects.

Note: The article number at end of each bullet point is for teachers’ reference only.

Civil and political aspects
<ul style="list-style-type: none">● <i>The permanent residents of the HKSAR shall have the right of abode in the HKSAR (Article 24)</i>● <i>All Hong Kong residents shall be equal before the law (Article 25)</i>● <i>Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike (Article 27)</i>● <i>Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies. (Article 35(1))</i>● <i>Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel (Article 35(2))</i>

Personal and other related freedom

- *The freedom of the person of Hong Kong residents shall be inviolable (Article 28(1))*
- *No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. (Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited (Article 28(2))*
- *The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited (Article 29)*
- *Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization. (Article 31)*
- *Hong Kong residents shall have freedom of choice of occupation (Article 33)*

Aspects related to religious belief

- *Hong Kong residents shall have freedom of conscience (Article 32(1))*
- *Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public (Article 32(2))*

Aspects related to property rights

- *The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law (Article 6)*
- *The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property (Article 105(1))*
- *Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay (Article 105(2))*
- *The ownership of enterprises and the investments from outside the Region shall be protected by law (Article 105(3))*

Aspects related to social welfare and marriage

- *Hong Kong residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law (Article 36)*
- *The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law (Article 37)*

Aspects related to culture and education

- *Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities (Article 34)*
- *Community organizations and individuals may, in accordance with law, run educational undertakings of various kinds in the Hong Kong Special Administrative Region (Article 136(2))*
- *Students shall enjoy freedom of choice of educational institutions and freedom to pursue their education outside the Hong Kong Special Administrative Region (Article 137(2))*

Worksheet 7: Voting age and age of candidacy

It is stipulated in Article 26 of the Basic Law that “permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law”. Refer to Source 1 and Source 2 and answer the questions.

Source 1: Register as a geographical constituency elector

The infographic is enclosed in a black rectangular border. It features four vertical panels, each with a question in a speech bubble on the right and an answer in a speech bubble on the left. The answer bubbles are connected to the question bubbles by lines. Each panel includes a small illustration: a woman in a yellow top, a man at a laptop, a man in a colorful shirt, and a man in a grey shirt.

Who can register as a geographical constituency elector?

If you are a Hong Kong permanent resident aged 18 or above, and ordinarily reside in Hong Kong, you are eligible to sign up as a geographical constituency elector.

I only turn 18 at the end of July 2021 but the registration deadline is 2 May 2021. Could I register as an elector now?

If you reach 18 years of age on or before 25 July 2021 when the final register for 2021 is published, and if you are a Hong Kong permanent resident, you are eligible to apply for registration as an elector now.

I am a new arrival from the Mainland. Can I register as an elector?

All Hong Kong permanent residents aged 18 or above who ordinarily reside in Hong Kong may apply for registration as an elector.

Source: Voter Registration, Government of the Hong Kong Special Administrative Region (May 2021).

<https://www.voterregistration.gov.hk/eng/home.html>

Source 2: Candidates' Qualifications

Chapter 547 District Councils Ordinance

Division 3 Elected Members

20. Who is eligible to be nominated as a candidate

(1) A person is eligible to be nominated as a candidate at an election only if the person –

(a) has reached 21 years of age; ...

Chapter 542 Legislative Council Ordinance

37. Who is eligible to be nominated as a candidate

(1) A person is eligible to be nominated as a candidate at an election for a geographical constituency only if the person –

(a) has reached 21 years of age; ...

(2) A person is eligible to be nominated as a candidate at an election for a functional constituency only if the person –

(a) has reached 21 years of age; ...

Source: Hong Kong e-Legislation, <https://www.elegislation.gov.hk/>

1. According to Source 1,

(a) If you want to register as a geographical constituency elector, what conditions must be met?

- *Aged 18*
- *Ordinarily reside in Hong Kong*
- *Hong Kong permanent residents*

(b) What does the HKSAR Government use as the boundary of “aged 18” to decide if the applicant met the condition in 1(a)?

The day when the final registers of electors is published.

(c) New arrivals in Hong Kong can register as geographical constituency electors if they meet the relevant conditions. Which one of the conditions is in accordance with the stipulation in Article 26 of the Basic Law?

Permanent residents of the Hong Kong Special Administrative Region.

2. According to Source 2,

(a) How old must a person be in order to be eligible to be nominated as a candidate for district councils and Legislative Council elections?

21 years old.

- (b) How do the requirements mentioned in Source 2 and Question 2(a) fulfil the stipulation in Article 26 of the Basic Law concerning the right to be elected?

The requirements are stipulated by law, that is, permanent residents of the Hong Kong Special Administrative Region shall have the right to stand for election in accordance with law.

Worksheet 8: Chinese citizens who are permanent residents of the HKSAR

In Worksheet 6, you have learned that permanent residents of the HKSAR included both Chinese citizens and persons not of Chinese nationality; while in Homework 1, you have learned more about the relevant information of the travel documents issued to them. Please answer the following questions:

1. According to the Basic Law, who in Hong Kong have the right to stand for election in accordance with law?

Permanent residents of the HKSAR.

2. (a) The following table lists the public offices that are involved in elections and that are only/ mainly held by Chinese citizens who are permanent residents of the HKSAR. Try to fill the names of the relevant positions in the blanks in the table below.

	Articles of the Basic Law		Name of the public office
	Article Number	Requirements for holding the relevant public office	
(i)	Article 44	A Chinese citizen of not less than 40 years of age who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years	<i>Chief Executive</i>
(ii)	Article 67	Composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country...	<i>Legislative Councillors</i>

- (b) Try to enter the Basic Law website to find out the content of Article 67: (<https://www.basiclaw.gov.hk/en/basiclawtext/index.html>)
 - (i) Apart from Chinese citizens who are permanent residents of the HKSAR who can hold the public offices mentioned in Question 2(a)(ii), which two other categories of persons can also hold such public offices?

Permanent residents of the HKSAR who are not of Chinese nationality and permanent residents of the HKSAR who have the right of abode in foreign countries.

- (ii) According to the Basic Law, what are the restrictions for the other two categories of persons mentioned in Question 2(b)(i) when they hold such public offices?

Provided that the proportion of such members does not exceed 20 percent of the total membership of the Legislative Council.



Know more: Other public offices that can only be held by Chinese citizens who are permanent residents of the HKSAR (not involving elections)

Worksheet 8 mentioned that the Chief Executive must be a Chinese citizen who is a permanent resident of the HKSAR; while the Legislative Council shall be composed of Chinese citizens who are permanent residents of the HKSAR. Then, other positions such as members of the Executive Council, the principal officials, the President of the Legislative Council, the Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court, what categories of persons can hold these public offices?

Articles of the Basic Law		Name of the public office
Article Number	Requirements for holding the relevant public office	
Article 55 (2)	Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country	Members of the Executive Council
Article 61/ Article 101 (1)	Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years	Principal officials
Article 71 (2)	A Chinese citizen of not less than 40 years of age, who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years	The President of the Legislative Council
Article 90 (1)	Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country	The Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court

**Module 1.4: Rights and Duties
(Lesson 6)
Learning and Teaching Materials**

The importance of respecting for and embodying rights and responsibilities as well as the rule of law (1)

Activity 5: Basic Law and major principles of the rule of law

The following table shows some major principles of the rule of law on the left column and relevant provisions of the Basic Law on the right column. Try to match the corresponding items using straight lines.

<p>The power of the government and all of its servants shall be derived from law as expressed in legislation and the judicial decisions made by independent courts.</p>	<p>Article 2 The National People’s Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law.</p>
<p>Equality before the law</p>	<p>Article 35(2) Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.</p>
<p>All persons, regardless of race, rank, politics or religion, are subject to the laws of the land.</p>	<p>Article 48(2) (The Chief Executive of the HKSAR) shall be responsible for the implementation of this Law and other laws which, in accordance with this Law, apply in the Hong Kong Special Administrative Region.</p>
<p>The courts are independent of the executive.</p>	<p>Article 25 All Hong Kong residents shall be equal before the law.</p>
<p>No one, including the Chief Executive can do an act which would otherwise constitute a legal wrong or affect a person’s liberty unless he or she can point to a legal justification for that action. If he or she cannot do so, the affected person can according to the law resort to a court which may rule that the act is invalid and of no legal effect. Compensation may be ordered in the affected person’s favour.</p>	<p>Article 42 Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region.</p>
	<p>Article 64 The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; ...</p>
	<p>Article 85 The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.</p>

Source: Department of Justice, HKSARG (1 September 2020).

Worksheet 9: The importance of the rule of law for development of society

Read Source 1 and Source 2 and then answer the questions.

Source 1: Abide by the law and the rule of law

It might seem trite that obedience of the Law is non-negotiable and uncompromisable. Arson and injuries to persons can hardly be justified on whatever political basis. Another fundamental core value in our community is respect of others' personal and property rights. With utmost respect, civil disobedience is no licence to arson, damage to citizens' properties and injuries to persons. Lest it be forgotten that obedience of the Law, safeguard of the Law are not only our duties, but our core values unless we want to resort to some medieval methods of dispute resolution, for example, trial by combat. Every willful disobedience of the Law is an erosion on our Rule of Law. I do not subscribe to the view that the Rule of Law will not be affected if those who committed arson and injuries to persons are willing and would eventually pay the price by going to prison. **Humanity dictates however strong we may disagree with others' political views, in a civilized society, we cannot resort to violence to silence different views.**

Source: Pang, M. K., Speech of the President of the Law Society of Hong Kong at the Opening of the Legal Year 2020 (13 January 2020).

http://www.hklawsoc.org.hk/pub_e/news/press/20200113.asp

Source 2: Rights and responsibilities

...we see clear limits in the law to the exercise of rights. The enjoyment or insistence on one's rights does not, for example, provide any excuse to harm other people or their property, or to display acts of violence. Our criminal laws provide a ready example of just where these limits lie and when called upon, these criminal laws are enforced to their full and proper extent by the courts.

The freedom of speech (called the freedom of opinion and expression in the Bill of Rights) states that the rights associated with this freedom carry with them special duties and responsibilities. Their exercise can therefore be restricted, for example, where necessary to respect the rights and reputations of others. The right of peaceful assembly is recognised but are limited in the same way as the freedom of speech. So too the freedom of association.

Therefore, the enjoyment of rights and freedoms also carries with it responsibilities and it is simply not right to think that other people's rights - or even the rights of the community as a whole - should somehow be regarded as less important than one's own. This acceptance is a large part of what I call the concept of justice.

Source: Ma, G. T. L., Chief Justice's speech at the Ceremonial Opening of the Legal Year 2020 (13 January 2020).

<https://www.info.gov.hk/gia/general/202001/13/P2020011300622.htm?fontSize=1>

1. (a) According to Source 1, an example of the medieval method of settling disputes is the trial by combat. Which of the following will benefit from this approach?

Elderly Young and vigorous Disability

- (b) Refer to the text boxes about the principles of the rule of law in Activity 5, which principle of the rule of law in modern civilized society does the trial by combat violate?

Equality before the law.

2. Source 1 mentions that “humanity dictates however strong we may disagree with others’ political views, in a civilized society, we cannot resort to violence to silence different views”. Which fundamental right guaranteed by the Basic Law does “resort to violence to silence different views” violate?

Freedom of speech.

3. As mentioned in Source 2, under what circumstance may we restrict the exercise of the freedom of speech?

Where necessary to respect the rights or reputations of others.

4. The last paragraph of Source 2 addresses the relationship between the rights of individuals, the rights of other people, and the rights of the community as a whole. Which principle of the rule of law addressed in Activity 3 is most relevant to this consideration?

Equality before the law.



Know more: The importance of the National Security Law in safeguarding national security

The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China and a local administrative region which enjoys a high degree of autonomy and comes directly under the Central People's Government. Safeguarding national sovereignty, security and development interests is the constitutional duty of the Hong Kong Special Administrative Region and concerns every Hong Kong citizen. It is the duty of everyone to safeguard national security. In view of the increasingly pronounced national security risks faced by the Region, the National Security Law has been enacted by the Central Authorities at the state level to plug the loophole in national security in Hong Kong.

Chapter 3 of the National Security Law, Offences and Penalties, provides the specific elements of crime and corresponding penalties, as well as other penalties and their spheres of validity in respect of four types of crimes, namely secession, subversion of state power, terrorist activities and collusion with foreign or external forces to endanger national security.

The National Security Law is enacted for the ultimate security of all Chinese nationals including Hong Kong people. It is indeed a decisive turning point for our city to achieve good governance and restore order from chaos. The issue of national security and social security have given Hong Kong people plenty of food for thought. Under the protection of the National Security Law, livelihood will definitely be better than before.

Source: Safeguarding National Security in Hong Kong, Information Services Department, the Government of the Hong Kong Special Administrative Region, The Law of the People's Republic of China on Safeguarding National Security in the Special Administrative Region, 26 July 2022.
<https://www.gld.gov.hk/egazette/pdf/20202448e/egn2020244872.pdf>

Worksheet 10: The exercise of rights and freedoms carries with it duties and responsibilities

Read Source 1 and Source 2 and then answer the questions.

Source 1: Maintaining public order

(Consideration on whether the Commissioner of Police's entitlement to prior notification of public meetings and processions is constitutional or not)

In Hong Kong, as in many other places around the world, pavements are often crowded, and vehicular traffic is often heavy. The vehicles liable to be affected by traffic congestion include ambulances and fire engines. As enjoyed peaceably and without causing intolerable interference with free passage along the highway or jeopardising crowd safety, the freedoms of assembly, procession and demonstration can be facilitated rather than hindered by reasonable arrangements made by the police. And the ability of the police to make such arrangements is of course greatly enhanced by receiving reasonable notification.

Source: Court of Final Appeal, Final Appeal Nos. 1 & 2 of 2005 (Criminal), *Leung Kwok Hung, Fung Ka Keung Christopher, Lo Wai Ming v. Hong Kong Special Administrative Region, Final Appeal Nos. 1 & 2, the Court of Final Appeal*, Date of Judgment: 8 July 2005.

https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=45653

Source 2: Maintaining public health

Maintaining social distancing is key to delay the spread of COVID-19 in Hong Kong. The Government will publish the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (the Regulation) (Cap.599G) in the Gazette today (March 28), with a view to combating the COVID-19 epidemic with resolute and stringent measures. ...The Regulation empowers the Secretary for Food and Health (SFH), for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, to prohibit any group gathering of more than 4 persons in any public place during a specified period.

Source: Press releases, the Government of the Hong Kong Special Administrative Region, *Prevention and Control of Disease (Prohibition on Group Gathering) Regulation*, 28 March 2020.

<https://www.info.gov.hk/gia/general/202003/28/P2020032800720.htm?fontSize=1>

1. (a) According to Source 1, what responsibilities do citizens have while enjoying the freedoms of assembly, procession and demonstration?

Peaceably and without causing intolerable interference with free passage along the highway or jeopardising crowd safety.

- (b) According to Source 1, what is the function in receiving reasonable notification by the police before the citizens exercising the freedoms of assembly, procession and demonstration?

The police could make reasonable arrangements in facilitating exercise of relevant rights and freedoms by citizens.

2. (a) According to Source 2, what is the purpose of the government publishing the Regulation to prohibit any group gathering of more than 4 persons in any public place during a specified period?

Maintaining social distancing, in order to reduce the spread of COVID-19 in Hong Kong.

- (b) If someone violates the relevant regulations, what adverse consequences will it bring?

It will increase the risk of spreading COVID-19 in Hong Kong.



Homework 2: International Covenant on Civil and Political Rights (ICCPR) and Hong Kong Bill of Rights

【Find the similarities】 In the following table, the left column shows the articles of the ICCPR, while the right column shows the content of the corresponding articles of the Hong Kong Bill of Rights. Do their contents look very similar? What does that mean?

International Covenant on Civil and Political Rights
https://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/iccpr.doc

Their contents are basically similar, which means the HKSAR implements and protects the rights and freedoms stipulated in the ICCPR through the Hong Kong Bill of Rights.

ICCPR	Hong Kong Bill of Rights
<p><u>Article 19</u></p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> (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. 	<p><u>Article 16 (Freedom of opinion and expression)</u></p> <ol style="list-style-type: none"> (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 – <ol style="list-style-type: none"> (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.

ICCPR	Hong Kong Bill of Rights
<p><u>Article 21</u> 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.</p>	<p><u>Article 17 (Right of peaceful assembly)</u> 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.</p>
<p><u>Article 22</u></p> <ol style="list-style-type: none"> 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. 	<p><u>Article 18 (Freedom of association)</u></p> <ol style="list-style-type: none"> (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 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.

**Module 1.4: Rights and Duties
(Lesson 7)
Learning and Teaching Materials**

The importance of respecting for and embodying rights and responsibilities as well as the rule of law (2)

Worksheet 11: The Basic Law, the provisions of the ICCPR and, the Hong Kong Bill of Rights

Read Source 1 to Source 3 and then answer the questions.

Source 1: Article 39 of the Basic Law

The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.

Source 2: Chapter 383 Hong Kong Bill of Rights Ordinance

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.

Source: Hong Kong e- Legislation, <https://www.elegislation.gov.hk/hk/cap383>

Source 3: The Basic Law and the ICCPR

As regards the right of peaceful assembly under the Basic Law, Article 39(2) provides that any restriction must not contravene Article 39(1), that is, the ICCPR as applied to Hong Kong, which has been implemented by BORO (Hong Kong Bill of Rights Ordinance). In relation to the right of peaceful assembly, Article 39(2) provides that any restriction must comply with the two constitutional requirements for restriction in Article 21 of ICCPR

Source: Court of Final Appeal, Final Appeal Nos.1&2 of 2005 (Criminal), *Leung Kwok Hung, Fung Ka Keung, Christopher Lo Wai Ming v. Hong Kong Special Administrative Region*, Date of judgement: 8 July 2005.

https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=45653

1. According to Source 1 and Source 2, how does the ICCPR apply to Hong Kong? Please try to explain it.

According to the Basic Law, the provisions of ICCPR as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region in order to protect the rights and freedoms enjoyed by Hong Kong residents.

2. With reference to the provision of the ICCPR, what would be the restrictions when people exercise their right and freedom of assembly? Refer to Source 3 and Homework 2 and try to find two relevant considerations.

(i) Exercise of the right and freedom of assembly shall be in accordance with the provisions of the law;

(ii) The right and freedom of assembly may be restricted in certain circumstances, for example, 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.



Know More: The application of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in Hong Kong

Unlike the ICCPR which has been incorporated into domestic law by the Hong Kong Bill of Rights Ordinance (Cap. 383), the **ICESCR** has not been incorporated into the domestic law of the HKSAR by a single piece of legislation. Rather, **individual provisions of the Covenant are implemented by the relevant provisions of the Basic Law (BL) and different pieces of local legislation as well as other non-legislative measures.** Provisions of particular relevance include:

- BL 27 (right to form and join trade unions and to strike)
- BL 33 (freedom of choice of occupation)
- BL 34 (freedom to engage in academic research and cultural activities)
- BL 36 (right to social welfare)
- BL 37 (freedom of marriage)
- BL 137 (academic freedom and autonomy of educational institutions)
- BL 140 (rights and interests of authors in their literary and artistic creation)
- Copyright Ordinance (Cap. 528)
- Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189)
- Education Ordinance (Cap. 279)
- Employment Ordinance (Cap. 57)
- Guardianship of Minors Ordinance (Cap. 13)
- Housing Ordinance (Cap. 283)
- Public Health and Municipal Services Ordinance (Cap. 132)
- four pieces of anti-discrimination legislation
- many pieces of environmental protection legislation

The above legislation is supplemented by administrative, financial and social measures such as the Comprehensive Social Security Assistance Scheme, the Social Security Allowance Scheme, the Protection of Wages on Insolvency Fund, Integrated Family Services, Family and Child Protective Services, the Home Ownership Scheme, the Harmonious Families Priority Scheme of the Housing Authority, support services for students with special educational needs, education services for non-Chinese speaking students, sports and cultural programmes organized by the Leisure and Cultural Services Department, Elderly Health Service and Child Assessment Service provided by the Department of Health.

Source: Basic Law Bulletin Issue No.17 (December 2015), *The Focus: Application of the International Covenant on Economic, Social and Cultural Rights in Hong Kong*.

https://www.doj.gov.hk/en/publications/pdf/basiclaw/basic17_3.pdf

Worksheet 12: The importance of respecting and embodying individual's and others' rights and responsibilities as well as the rule of law, to development of society and common good

Read Source 1 and then answer the questions.

Source 1: Rule of law and public interest

...Laws of course regulate the activities and the often complex interactions between persons or institutions. The object is to enable members of society to lead dignified lives, to enable them and their families to realise ambitions as best as possible, and to achieve mutual respect between all those within the community. To realise these objects, it is necessary to have in place an infrastructure to ensure that these objects can be fulfilled.

The infrastructure of the law begins with the important requirement that all laws must conform to certain minimum requirements...All laws in Hong Kong must conform to the Basic Law. As we all know, these fundamental rights and liberties are constitutionally protected. ...

The concept of equality is key to an understanding of Hong Kong's system of law. I have said (as many have said before me) that the law applies equally to every person. No one person or institution is above the law and the application of the law. Thus, the Government and all within it are subject to the law in precisely the same way as everybody else. No special group, institution or person is above the law and the equal application of the law. Equality is a fundamental component of the rule of law itself. A proper acceptance of this means a proper respect for the rule of law.

...

Public law cases on the whole involve the very rights and liberties that are protected by the Basic Law and which, as a community, we hold dear. These rights and liberties are enjoyed by every member of the community. They reflect fundamental societal values. A greater awareness of rights and liberties means that in the public sphere, proper responsibility and accountability for decisions affecting every aspect of life and activity in Hong Kong are now expected by the community. Proper responsibility and accountability in the public sphere is called good governance, and good governance is another term for an adherence to the requirements of the law and to its spirit. In other words, it embodies the concept of the rule of law. This is the essence of that type of case known as judicial review and, most often, this type of case involves the Government or a department within the Government, although it can also involve other public bodies. In judicial reviews, the public interest is always engaged and the effects of a decision of the court in this type of case will almost always affect sections of the public beyond the immediate parties in court. Sometimes, the whole community is directly affected...

Source: Ma, G. T. L., *Chief Justice's speech at the Ceremonial Opening of the Legal Year 2016* (11 January 2016).

<https://www.info.gov.hk/gia/general/201601/11/P201601110428.htm>

1. Why does the law need to regulate the activities and interactions between persons or institutions?

Regulating the activities and interactions between persons or institutions enables members of society to lead dignified lives. It enables them and their families to realise aspirations as best as possible. Mutual respect between all those within the community can be achieved.

2. (a) To effectively protect Hong Kong citizens' right and liberties, what do all laws in Hong Kong must conform to?

All laws in Hong Kong must conform to the Basic Law.

- (b) As suggested by the then Chief Justice of the Court of Final Appeal, Mr G. T. L. Ma, what does a proper respect for the rule of law mean?

It means a proper acceptance that equality is a fundamental component of the rule of law.

3. (a) What is always engaged in judicial reviews?

Public interest.

- (b) Through judicial reviews, how can the public prompt decision makers to embody good governance in the public sphere?

Judicial reviews can prompt the decision makers to adhere to the requirements of the law and to its spirits.

- (c) Apart from the parties in court, who will be affected in a decision of the court in judicial review? How is resolving legal disputes in accordance with the law related to the common good of society? Please explain.

The public beyond the immediate parties in court, and even the whole Community will be affected.

Resolving legal disputes in accordance with the law can protect the public interest and benefit the common good of society.



Homework 3: The dates when the PRC signed and ratified some international agreements

We will discuss some of the international agreements that are applicable to the HKSAR in the next lesson. Before the next lesson, please go to the United Nations website and look for the following international treaties. Then, you can click to find out the dates when the PRC signed and formally acceded/ratified the following international treaties and record the relevant information in the table below to get a preliminary understanding of these international agreements.

https://treaties.un.org/Pages/Index.aspx?clang=_en

	People's Republic of China	
	Signature	Ratification/Accession
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (Adopted by the General Assembly of the United Nations on 21 December 1965)		<i>29 December 1981</i>
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Adopted by the General Assembly of the United Nations on 18 December 1979)	<i>17 July 1980</i>	<i>4 November 1980</i>
Convention on the Rights of Child (CRC) (Adopted by the General Assembly of the United Nations on 20 November 1989)	<i>29 August 1990</i>	<i>2 March 1992</i>
Convention on the Rights of Persons with Disabilities (CRPD) (Adopted by the General Assembly of the United Nations on 13 December 2006)	<i>30 March 2007</i>	<i>1 August 2008</i>

**Module 1.4: Rights and Duties
(Lesson 8)
Learning and Teaching Materials:**

Appendix 6



**Know More: United Nations Charter and related
glossary**

United Nations Charter

Article 2

1. The Organization is based on the principle of the sovereign equality of all its Members.

...

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state ...

Source: <https://www.un.org/en/about-us/un-charter>

United Nations Treaty Collection > Overview and Glossary

Treaties

Treaty as a generic term: The term “**treaty**” has regularly been used as a generic term embracing all instruments binding at international law concluded between international entities, regardless of their formal designation. ... In order to speak of a “treaty” in the generic sense, an instrument has to meet various criteria. First of all, it has to be a binding instrument, which means that the contracting parties intended to create legal rights and duties. Secondly, the instrument must be concluded by states or international organizations with treaty-making power. Thirdly, it has to be governed by international law. Finally the engagement has to be in writing. ...

Conventions

The term “**convention**” again can have both a generic and a specific meaning.

Convention as a generic term: ... This generic use of the term “convention” embraces all international agreements, in the same way as does the generic term “treaty”. ... The generic term “convention” thus is synonymous with the generic term “treaty”.

Convention as a specific term: Whereas in the last century the term “convention” was regularly employed for bilateral agreements, it now is generally used for formal multilateral treaties with a broad number of parties. Conventions are normally open for participation by the international community as a whole, or by a large number of states. ...

.../

Acceptance and Approval

The instruments of “acceptance” or “approval” of a treaty have the same legal effect as ratification and consequently express the consent of a state to be bound by a treaty. In the practice of certain states acceptance and approval have been used instead of ratification when, at a national level, constitutional law does not require the treaty to be ratified by the head of state.

Reservation

A reservation is a declaration made by a state by which it purports to exclude or alter the legal effect of certain provisions of the treaty in their application to that state. A reservation enables a state to accept a multilateral treaty as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply. Reservations can be made when the treaty is signed, ratified, accepted, approved or acceded to. Reservations must not be incompatible with the object and the purpose of the treaty. ...

Source:

https://treaties.un.org/pages/overview.aspx?path=overview/glossary/page1_en.xml

International agreements: Their application to the HKSAR

Worksheet 13: Application to the HKSAR of some international agreements

Read Source 1 and Source 2 and then answer the questions.

Source 1: Article 153 of the Basic Law

The application to the Hong Kong Special Administrative Region of international agreements to which the People's Republic of China is or becomes a party shall be decided by the Central People's Government, in accordance with the circumstances and needs of the Region, and after seeking the views of the government of the Region.

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. The Central People's Government shall, as necessary, authorize or assist the government of the Region to make appropriate arrangements for the application to the Region of other relevant international agreements.

Source 2: Application to the HKSAR of some international agreements

ICERD

On 10 June 1997, the Government of the PRC issued a letter to the United Nations Secretary-General giving notification that the ICERD will apply to the HKSAR with effect from 1 July 1997...

CRC

On 10 June 1997, the Government of the PRC issued a letter to the United Nations Secretary-General and a number of diplomatic notes stating that the reservations and declarations entered by the Government of the PRC on its ratification of the Convention in 1992 are also applicable to the HKSAR with effect from 1 July 1997...

CRPD

On 1 August 2008, the Government of the PRC make to the United Nations Secretary-General the following declarations in respect of the HKSAR: “ In accordance with the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, the Government of the People’s Republic of China decides that the Convention shall apply to the Hong Kong Special Administrative Region ... The UNCRPD entered into force for the PRC, including the HKSAR, on 31 August 2008.”

CEADW

CEADW was extended to Hong Kong, at the consent of the PRC and the United Kingdom, on 14 October 1996. The Government of the PRC notified the United Nations Secretary-General that the Convention would continue to apply to the HKSAR with effect from 1 July 1997...

Source: Annex E: Application of International Human Rights Treaties to the HKSAR, Initial Report of the Hong Kong Special Administrative Region of the People’s Republic of China under the United Nations Convention on the Rights of Persons with Disabilities

[https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20\(version%20for%20publication\).pdf](https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20(version%20for%20publication).pdf)

1. In Homework 3 and Source 1, you have learned that ICED, CEDAW, CRC and CRPD are applicable to the HKSAR. Which part of Article 153 of the Basic Law (listed in Source 1) is related to those agreements? Why?

The international agreements mentioned are related to Article 153(1) of the Basic Law, because the People’s Republic of China is a party to the four international agreements.

2. (a) According to Source 2, when did the ICERD, CEDAW, CRC and CRPD start to apply to the HKSAR? Try to fill in the answers in the appropriate places in the table below.

International agreement	Date of application
ICERD	<i>1 July 1997</i>
CEDAW	<i>1 July 1997</i>
CRC	<i>1 July 1997</i>
CRPD	<i>31 August 2008</i>

- (b) Referring to homework 3, why did the ICERD, CEDAW and CRC apply immediately after Hong Kong returned to China?

The People's Republic of China was or had become a party to the three international agreements before Hong Kong returned to China. Therefore, according to Article 153(1) of the Basic Law, these international agreements applied to the HKSAR with effect from 1 July 1997.

- (c) Referring to homework 3, why is the date of application of CRPD to the HKSAR different from the other three international agreements?

The CRPD was only adopted by the General Assembly of the United Nations in 2006. The People's Republic of China signed it in 2007 and ratified it on 1 August 2008. Therefore, in accordance with the provisions of the Basic Law, it was applied to the HKSAR effective from 31 August 2008.

Worksheet 14: Examples of reservation clauses related to CRC, CEDAW, CRPD, and ICERD

Students work in groups of four, with each group focussing on one international agreement. Discuss in the group and answer related questions. After discussion, present the answers to the whole class.

When the Government of the PRC notified United Nations Secretary-General that ICERD, CEDAW, CRC and CRPD are applicable to the HKSAR, relevant reservations and declarations have also been stated.

A. CRC

Source 1: Article 32 of the CRC

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - ...
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - ...

Source: Convention on the Rights of the Child.

https://www.lwb.gov.hk/files/CRC/Convention%20on%20the%20Rights%20of%20the%20Child_Eng.pdf

Source 2: CRC [Statement on Reservations]

4. The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply Article 32(2)(b) of the Convention in so far as it might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments.

Source: Annex E: Application of International Human Rights Treaties to the HKSAR, Initial Report of the Hong Kong Special Administrative Region of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities.

[https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20\(version%20for%20publication\).pdf](https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20(version%20for%20publication).pdf)

Source 3: Working hours of children

658. We have also reviewed the reservation in respect of Article 32(2)(b) which requests State Parties to provide for appropriate regulations on the hours and conditions for employment. Removal of the reservation would require restriction be placed on the hours of employment for young persons who have attained the age of 15 years in respect of work in non-industrial establishments. Young persons usually lack work skills, experience and academic qualifications. Imposing further restrictions on their hours of employment in non-industrial establishments would discourage employers from hiring young persons. This will not be conducive to their entry into the employment market and will reduce their opportunities to acquire the necessary work skills and experience for personal and career development. This is not in line with our policy of improving employment opportunities for young persons and the development of their full potentials. In the HKSAR, safety and health of young persons at work are protected by relevant legislation, including the Occupational Safety and Health Ordinance (Cap. 509) and its regulations which require employers to provide a safe and healthy work environment for their employees, irrespective of their age and the Government has put in place effective inspection system to enforce the legislation.

Source: Part II: IX. Reservations and Declarations, Combined Third and Fourth Reports of the People's Republic of China under the Convention on the Rights of the Child – Part Two: Hong Kong Special Administrative Region, <https://www.legco.gov.hk/yr11-12/english/panels/ca/papers/ca0618-rpt20120525-e.pdf>

1. According to Source 1, what does the CRC primarily wish to protect children from?

To protect children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. According to Source 2, which part of the CRC, as listed in the statement of reservations by the Government of the PRC, is not applicable to the HKSAR?

The part that might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments.

3. (a) According to Source 3, what will be the adverse effects if the hours of employment for young persons who have attained the age of 15 years in respect of work in non-industrial organizations are restricted?

Imposing further restrictions on their hours of employment in non-industrial establishments would discourage employers from hiring young persons. This will not be conducive to their entry into the employment market and will reduce their opportunities to acquire the necessary work skills and experience for personal and career development.

- (b) The Government of the PRC has made the reservation that the part referred to in Question 2 is not applicable to the HKSAR. However, this does not violate the spirit of the CRC. Why?

The reservation is intended to promote the personal and career development of young persons through relevant work arrangements, and is not to be interfering with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

B. CEDAW

Source 1: Article 14 of the CEDAW

- ...
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
- (a) To participate in the elaboration and implementation of development planning at all levels;
 - (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
 - (c) To benefit directly from social security programmes;
 - (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
 - (f) To participate in all community activities;
 - (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Source: Convention on the Elimination of All Forms of Discrimination against Women.
https://www.hyab.gov.hk/CEDAW/documents/CEDAW_E.pdf

Source 2: CEDAW [Statement on Reservations]

5. Laws applicable in the New Territories of the Hong Kong Special Administrative Region which enable male indigenous villagers to exercise certain rights in respect of property and which provide for rent concessions in respect of land or property held by indigenous persons or their lawful successors through the male line will continue to be applied.

Source: Appendix E International Bill of Human Rights applicable to the HKSAR, Initial Report of the Hong Kong Special Administrative Region of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities.
[https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20\(version%20for%20publication\).pdf](https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20(version%20for%20publication).pdf)

Source 3: Rent Concessions

307. Rent concessions in respect of certain rural properties owned by indigenous villagers are provided for under Article 122 of the Basic Law. Hence, a reservation on laws applicable in the New Territories of the HKSAR which enable male indigenous villagers to exercise certain rights in respect of property and which provide for rent concessions in respect of land or property held by indigenous persons or their lawful successors through the male line will continue to be applied (paragraph 5 of the reservations) has been entered to ensure consistency between the application of the Convention in the HKSAR and the Basic Law.

Source: Part II Article 14, Second report on HKSAR's implementation of UN Convention on the Elimination of All Forms of Discrimination against Women available for public inspection. https://www.hyab.gov.hk/CEDAW/documents/CEDAW_2nd_report_E.pdf

1. According to Source 1, who are protected by Article 14 of the CEDAW?

Women in rural areas.

2. According to Source 2, with regard to Article 14 of the CEDAW, for whom in the HKSAR are related laws on certain rights in respect of property and rent concessions as listed in the Statement of Reservations by the Government of the PRC are applicable?

Male indigenous villagers in the New Territories or lawful successors through the male line.

3. (a) With reference to Source 3, how does the Basic Law protect the interests of the persons mentioned in Question 2?

The Basic Law stipulates that rent concessions in respect of certain rural properties owned by indigenous villagers are provided for (Article 122, Basic Law).

- (b) To conclude, what is the relationship between the laws enacted by the legislature of the HKSAR and the Basic Law?

No laws enacted by the legislature of the HKSAR shall contravene the Basic Law.

C. CRPD

Source 1: Article 18 of the CRPD

Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
 - a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
 - b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
 - c. Are free to leave any country, including their own;
 - d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

Source: Convention on the Rights of Persons with Disabilities.

https://www.lwb.gov.hk/en/highlights/UNCRPD/Publications/22072008_e.pdf

Source 2: CRPD [Statement on reservations in respect of the HKSAR]

The application of the provisions regarding liberty of movement and nationality of the Convention on the Rights of Persons with Disabilities to the Hong Kong Special Administrative Region of the People's Republic of China, shall not change the validity of relevant laws on immigration control and nationality application of the Hong Kong Special Administrative Region of the People's Republic of China.

Source: Appendix E International Bill of Human Rights applicable to the HKSAR, Initial Report of the Hong Kong Special Administrative Region of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities

[https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20\(version%20for%20publication\).pdf](https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20(version%20for%20publication).pdf)

Sources 3: CRPD [Interpretation of the statement on reservations in respect of the HKSAR]

147. The People's Republic of China has entered a reservation in respect of the HKSAR stating that the application to the HKSAR of the provisions regarding liberty of movement and nationality of the Convention shall not change the validity of relevant laws on immigration control and nationality application of the HKSAR. The reservation clause aims to forestall vexatious legal challenge against the HKSAR Government on the alleged ground of discrimination, and help uphold the HKSAR's effective immigration control so as to ensure the stability of the HKSAR and combat cross-boundary crimes. Similar reservations have been entered in respect of other human rights treaties applicable to the HKSAR.

Source: Second and Third Report of the Hong Kong Special Administrative Region of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities

https://www.lwb.gov.hk/en/highlights/UNCRPD/Documents/2nd&3rdRpt_eng.pdf

1. According to Source 1, what rights of persons with disabilities are protected by Article 18 of the CRPD?

Their rights to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others.

2. According to Source 2, with regard to the CRPD, what statement on reservations has the Government of the PRC entered in respect of the HKSAR?

The application of the provisions regarding liberty of movement and nationality shall not change the validity of the HKSAR's laws on immigration control and nationality applications.

3. (a) According to Source 3, point out the purpose of the statement on reservations as listed in the answer to Question 2.

The reservation clause aims to forestall vexatious legal challenge against the HKSAR Government on the alleged ground of discrimination, and help uphold the HKSAR's effective immigration control so as to ensure the stability of the HKSAR and combat cross-boundary crimes.

- (b) Which article in Chapter 7 “External Affairs” of the Basic Law is related to the purpose mentioned in the answer to Question 3 (a) above? Try to find the relevant provisions from the Basic Law website.

<https://www.basiclaw.gov.hk/en/basiclaw/chapter7.html>

The Government of the Hong Kong Special Administrative Region may apply immigration controls on entry into, stay in and departure from the Region by persons from foreign states and regions. (Article 154(2))

D. CEADW and ICERD

Source 1: Article 29 of the CEDAW and Article 22 of the ICERD

CEDAW (Article 29)

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention, which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

...

ICERD (Article 22)

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Source: Convention on the Elimination of All Forms of Discrimination against Women. https://www.hyab.gov.hk/CEDAW/documents/CEDAW_E.pdf and International Convention on the Elimination of All Forms of Racial Discrimination. <https://www.cmab.gov.hk/en/issues/human.htm>

Source 2: Statement on reservations related to the CEDAW and ICERD

CEDAW

[Statement on reservations]

1. The reservation made by the Government of the People's Republic of China to paragraph 1 of Article 29 of the Convention will also apply to the Hong Kong Special Administrative Region.

ICERD [Statement on reservations]

1. The reservation made by the Government of the People's Republic of China to Article 22 of the Convention will also apply to the Hong Kong Special Administrative Region. [see note (1)]

...

Note (1) The reservation against Article 22 reads "The People's Republic of China has reservations on the provisions of Article 22 of the Convention and will not be bound by it."

Source: Appendix E International Bill of Human Rights applicable to the HKSAR, Initial Report of the Hong Kong Special Administrative Region of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities,

[https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20\(version%20for%20publication\).pdf](https://www.lwb.gov.hk/tc/highlights/UNCRPD/Publications/HKSAR's%20UNCRPD%20report_Eng%20(version%20for%20publication).pdf), and International Convention on the Elimination of All Forms of Racial Discrimination
<https://www.cmab.gov.hk/en/issues/human.htm>

Source 3: The State Council's statement on reservations related to the CEDAW

Paragraph 1, Article 29 of the CEDAW stipulates that any dispute between two or more States Parties concerning the interpretation or application of the Convention, which is not settled by negotiation or arbitration, any one of those parties may refer the dispute to the International Court of Justice. In this regard, according to my country's existing position that the jurisdiction of the International Court of Justice as compulsory is not accepted, when signing the convention, we have declared that the paragraph is not binding on us.

Source: State Council, 20 September 1980, "Motion Regarding the Request for Ratification of the United Nations Convention on the Elimination of All Forms of Discrimination against Women" submitted by the State Council, Issue No. 15, Serial No. 342, 1980, Gazette of the State Council of the People's Republic of China, (20 December 1980).
<http://www.gov.cn/gongbao/shuju/1980/gwyb198015.pdf>

Source 4: The reservation of the PRC to the CEDAW applying to the HKSAR

1.3 The PRC entered a reservation to paragraph 1 of Article 29 of the Convention which also applies to the HKSAR. Since the matter of dispute settlement falls within the scope of foreign affairs relating to the HKSAR for which the Government of the PRC shall be responsible, it is the prerogative of the Government of the PRC to determine whether this reservation should continue to apply.

Source: Third report on HKSAR's implementation of UN Convention on the Elimination of All Forms of Discrimination against Women available for public inspection.
https://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/ICCPR_3rd_report_en.pdf

1. According to Source 1, CEDAW and ICERD stipulate that when two or more States Parties fail to resolve disputes through negotiation or other means, how should we deal with the situation?

It should be referred to the International Court of Justice for decision at the request of any of the parties to the dispute.

2. According to Source 2 and Source 3, who made the statement of reservations regarding the two clauses mentioned in Source 1? Why?

The Government of the People's Republic of China.
According to the existing position of the PRC, the jurisdiction of the International Court of Justice as compulsory has not been accepted.

3. (a) According to Source 4, why does the Government of the People's Republic of China have the power to decide whether the reservation of Article 29 of the CEDAW continues to apply to the HKSAR?

Because the matter of dispute settlement falls within the scope of foreign affairs relating to the HKSAR for which the Government of the PRC shall be responsible.

- (b) Which article in Chapter 2 "Relationship between the Central Authorities and the Hong Kong Special Administrative Region" of the Basic Law is related to the answer to Question 3(a)? Try to find the relevant article from the Basic Law website.

https://www.basiclaw.gov.hk/pda/en/basiclawtext/chapter_2.html

"The Central People's Government shall be responsible for the foreign affairs relating to the Hong Kong Special Administrative Region."
(Article 13(1)).

**Module 1.4: Rights and Duties
(Lesson 9)
Learning and Teaching Materials**

Rights of the Child and related restrictions

Activity 6: Rights of the Child

The left column of the table below shows the four categories of children’s rights on the website of the Hong Kong Committee for the United Nations International Children’s Emergency Fund (UNICEF), and the right column shows some examples of relevant provisions of the CRC. Try to find the corresponding items and connect them in straight lines.

<p>Right to survival Every child has the right to enjoy food, clean water, health services and a standard of living, etc. adequate for survival</p>	<p>Article 31 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p>
<p>Right to development Every child has the right to education, leisure, participation in cultural activities and understanding their basic rights, etc.</p>	<p>Article 14 1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.</p>
<p>Right to protection Every child has the right to special protection in situations of armed conflict or conflict with the law, and should be protected from any forms of abuse, neglect or exploitation</p>	<p>Article 24 1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p>
<p>Right to participation Every child has the right to freedom of expression; social, economic, cultural and religion activities; association and peaceful assembly; information from diverse sources</p>	<p>Article 38 1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.</p>
	<p>Article 28 1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity...</p>

Source: Hong Kong Committee for UNICEF>Education Resources – Learn about Child Rights.
<https://www.unicef.org.hk/en/eduresources/childrights/learn/>

Worksheet 15: Rights of the Child and related restrictions

Read Source 1 to Source 6 and then answer the questions.

Source 1: Preamble and Article 1 of the CRC

Preamble

... *Bearing in mind* that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”, ...

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Source: Convention on the Rights of the Child.

<https://www.cmab.gov.hk/en/issues/human.htm>

Source 2: Article 13 and Article 15 of CRC

Article 13

1. The child 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 the child’s choice.
2. The exercise of this right may 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.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights 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.

Source: Convention on the Rights of the Child.

<https://www.cmab.gov.hk/en/issues/human.htm>

Source 3: Article 23 of the CRC and Article 7(1) and 9(1) of the CRPD

Article 23(1) of the CRC

States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Article 7(1) of the CRPD

States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

Article 9(1) of the CRPD

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:
 - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
 - b. Information, communications and other services, including electronic services and emergency services.

Source: The Government of the Hong Kong Special Administrative Region Constitutional and Mainland Affairs Bureau, Convention on the Rights of the Child.

<https://www.cmab.gov.hk/en/issues/human.htm>

The Government of the Hong Kong Special Administrative Region Labour and Welfare Bureau, Convention on the Rights of Persons with Disabilities,

https://www.lwb.gov.hk/en/highlights/UNCRPD/Publications/22072008_e.pdf

Source 4: Inclusive Playground in Tuen Mun Park

Inclusive Playground in Tuen Mun Park to open soon.

For instance, in light of parents' concerns that kids wearing cochlear implants will feel unease when sliding down a plastic slide, the design team selected a set of stainless steel slides for hearing impaired children. The lower roller embankment slide enables children with impaired mobility to enjoy the experience of sliding. In addition, the playground also features a small tunnel, low walls and barriers, which can help autistic children stay away from external stimuli and ease their sense of anxiety before they gradually get familiar with the environment.



The playground is divided into the northern and southern sections. The design theme for the southern section is “Reptile Fun”, with facilities such as climbing tower, slides, ramps and sensory walls. Wheelchair-bound children can play on a roller embankment slide, while stainless steel slides are suitable for hearing impaired children.

Source: Wong, Michale (16 September 2018), *Inclusive Playground in Tuen Mun Park to open soon*, The Government of the Hong Kong Special Administrative Region Development Bureau > My Blog.

https://www.devb.gov.hk/en/home/my_blog/index_id_303.html

Source 5: Article 32 of the CRC

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Source: Convention on the Rights of the Child.

<https://www.cmab.gov.hk/en/issues/human.htm>

Source 6: Employment Rights for Young Persons in Industrial Undertakings

If you have reached 15 years old but under 18, you are classified as a "young person" under the Employment Ordinance (EO). According to the Employment of Young Persons (Industry) Regulations, made under the EO, you are entitled to the following rights when working in industrial undertakings.

Maximum Working Hours

- The maximum working hours for a young person is eight hours a day and 48 hours a week.
- You are also not allowed to work more than six days a week or work overtime.
- Working time should be within 7 am and 7 pm unless special permissions are granted by the Labour Department (LD).

Intervals for Meals or Rest

- The employer must complete a specified notice on the permissible working hours, the intervals for meals or rest and the arrangement of rest days for young persons to be employed. No change shall be made without prior notice to the LD and completion of a new notice afterwards.
- You should not be made to work during your intervals for meals or rest as shown in the notice.

Rest Days

- You shall be given one rest day a week.
- Work on rest days is strictly prohibited.

Others

- You should not be made to work underground such as a mine or quarry.
- You should not be made to work in dangerous trades such as boiler chipping, manufacture of glass, mercury, sulphuric acids, etc.
- You should not be allowed to carry any unreasonably heavy load.
- You should be provided facilities for sitting where work must be done standing.

According to the EO, "children" refer to persons aged under 15. The Employment of Children Regulations, made under the EO, prohibit the employment of children in industrial undertakings. Children aged under 13 are further prohibited from taking up employment in all economic sectors. Children aged 13 or over may be employed in non-industrial establishments, subject to a number of conditions. For example, parental written consent to the child's employment is required. Moreover, the parent should produce to the prospective employer evidence that the child has completed Form 3 or a valid school attendance certificate in respect of the child.

Those who have completed Form 3 shall not be employed:

- before 7 am or after 7 pm;
- for more than eight hours on any day;
- to work continuously for more than five hours without a break of not less than 1 hour for a meal or rest; and
- to carry any load exceeding 18 kg.

In addition to the above, those who have not yet completed Form 3 shall not be employed:

- during school hours on any school day;
- during the school term for more than
 - two hours on any school day, or
 - four hours on any other day;
- during the summer holidays for more than eight hours on any day; and
- in certain occupations or premises.

For the development of art or training, those under the age of 13 may work as entertainers subject to the special permission of the Commissioner for Labour.

Source: GOVHK, <https://www.gov.hk/en/residents/employment/jobsearch/employyoung.htm>

1. Answer the following questions according to Source 1.

- (a) Why does the child need special safeguards and care, including appropriate legal protection, before as well as after birth?

It is because of his physical and mental immaturity.

- (b) What does a child mean in Article 1 of the CRC?

A child means every human being below the age of eighteen years.

2. Answer the following questions according to Source 2.

- (a) Article 13 of the CRC indicates that the child shall have the right to freedom of expression. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary for what purposes?

The exercise of the right of the child to freedom of expression may be subject to certain restrictions for respect of the rights or reputations of others; or for the protection of national security or of public order (ordre public), or of public health or morals.

- (b) Article 15 of the CRC indicates that States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests and protection of what aspects?

Restrictions on the exercise of the rights of the child to freedom of association and to freedom of peaceful assembly are necessary 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.

- (c) When comparing to the content of the ICCPR and Hong Kong Bill of Rights in Homework 2: International Covenant on Civil and Political Rights (ICCPR) and Hong Kong Bill of Rights, how are the relevant restrictions of the CRC mentioned in 2.(a) and (b) related to the relevant restrictions of the ICCPR and Hong Kong Bill of Rights?

They are identical.

3. Answer the following questions according to Source 3.

- (a) With reference to the CRC, what should a mentally or physically disabled child enjoy?

A mentally or physically disabled child should enjoy a full and decent life.

- (b) With reference to the CRPD, on what basis should children with disabilities fully enjoy all human rights and fundamental freedoms?

Children with disabilities should fully enjoy all human rights and fundamental freedoms on an equal basis with other children.

- (c) According to the CRPD in Source 3, States Parties should take appropriate measures to ensure that persons with disabilities can enjoy what kind of environment?

States Parties should take appropriate measures to ensure that persons with disabilities can enjoy a barrier-free environment.

4. (a) According to Source 4, what kind of disabled children are considered in the design of the Inclusive Playground in Tuen Mun Park?

Hearing impaired children, children with impaired mobility / wheelchair-bound children, and autistic children.

- (b) Which requirement of the CRPD has been met by the design of the Inclusive Playground in Tuen Mun Park?

Ensure that persons with disabilities, on an equal basis with others, have barrier-free access to the physical environment.

5. Answer the following questions according to Source 5.

- (a) Article 32 of the CRC indicates that States Parties recognize the right of the child to be protected from economic exploitation and from performing what kind of work?

States Parties recognize the right of the child to be protected from any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

- (b) How shall States Parties ensure the implementation of Article 32 of the CRC?

They shall take legislative, administrative, social and educational measures to ensure the implementation of Article 32 of the CRC.

6. Complete the following table according to Source 6 on employment rights for young persons in industrial undertakings:

Age range	Prohibited from taking up employment	Exception
Aged under 13	<i>prohibited from taking up employment in all economic sectors</i>	<i>may work as entertainers subject to the special permission of the Commissioner for Labour</i>
Age range	Areas of employment	Related restrictions

Aged 13 but below 15	<i>may be employed in non-industrial establishments</i>	<ul style="list-style-type: none"> ● <i>parental written consent to the child's employment is required</i> ● <i>the parent should produce to the prospective employer evidence that the child has completed Form 3 or a valid school attendance certificate in respect of the child</i>
Age 15 but below 18	<p>[apart from non-industrial establishments]</p> <p><i>may be employed in industrial undertakings</i></p>	<ul style="list-style-type: none"> ● <i>should not be made to work underground such as a mine or quarry</i> ● <i>should not be made to work in dangerous trades such as boiler chipping, manufacture of glass, mercury, sulphuric acids, etc.</i> ● <i>Should not be allowed to carry any unreasonably heavy load</i> ● <i>should be provided facilities for sitting where work must be done standing</i>

**Module 1.4: Rights and Duties
(Lesson 10)
Learning and Teaching Materials**

Rights and duties related to the elimination of prejudice and discrimination

Activity 7: Gender difference in labour force participation rate

Read Source 1 and then answer the questions.

Source 1: Labour force participation rate by gender (2016) (percentages)

	Total	Men	Women
World	63	76	50
Developed economies	60	68	52
Emerging economies	62	78	47
Developing economies	76	82	70
[Sub-regions]			
Arab States	52	76	21
Eastern Asia	69	77	62
Eastern Europe	60	68	53
Central and Western Asia	58	73	44
Latin America and the Caribbean	66	78	53
Northern Africa	48	74	23
Northern America	62	68	56
Northern, Southern and Western Europe	57	64	51
South-Eastern Asia and the Pacific	70	81	59
Southern Asia	55	79	28
Sub-Saharan Africa	70	76	65

LABOUR FORCE refers to the sum of all persons of working age who are employed and those who are unemployed. The labour force participation rate expresses the labour force as a percentage of the working-age population.

Source: ILO-Gallup Report (2017), *Towards a better future for women and work: Voices of women and men*, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_546256.pdf

1. What was the difference between men's labour participation rate and women's labour participation rate in the world in 2016 in percentages?

26 per cent.

2. Among the three types of economies, which one had the greatest difference between men's labour participation rate and women's labour participation rate in 2016?

Emerging economies.

3. (a) Among the sub-regions, which three had the greatest difference between men's labour participation rate and women's labour participation rate in 2016?

Arab states, northern Africa, southern Asia.

- (b) Among the sub-regions, which three had the smallest difference between men's labour participation rate and women's labour participation rate in 2016?

Sub-Saharan Africa, Northern America, Northern, Southern and Western Europe.

Worksheet 16: Rights and duties related to the elimination of prejudice and discrimination (1)

Read Source 1 to Source 4 and then answer the questions.

Source 1: Article 5 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Source: Labour and Welfare Bureau of the Government of the Hong Kong Special Administrative Region, Convention on the Elimination of All Forms of Discrimination against Women.

https://www.hyab.gov.hk/CEDAW/4th_report/en/index.html

Source 2: Gender Equality

Facts and figures

In 18 countries, husbands can legally prevent their wives from working...

Goal 5 targets

5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.

Source: United Nations. <https://www.un.org/sustainabledevelopment/gender-equality/>

Source 3: Family and work Status



Source 4: Work in the care economy

25. Women bear the disproportionate burden of unpaid work, including unpaid care and domestic work, which is usually excluded from the calculation of the gross domestic product (GDP). The total value of unpaid care and domestic work is estimated to be between 10 and 39 per cent of GDP, and can surpass that of manufacturing, commerce, transportation and other key sectors. Unpaid care and domestic work support the economy and often makes up for lack of public expenditure on social services and infrastructure. In effect, it represents a transfer of resources from women to others in the economy... Policies that reduce and redistribute women's and girls' unpaid care and domestic work by providing social protection – child and elder care services, universal health care, parental leave – and infrastructure – such as universal access to potable water and clean, modern energy – can create employment, improve women's labour force participation and increase retention of girls in school.

Source: Commission on the Status of Women of the United Nations Economic and Social Council at its sixty-first session (2017), *Report of the Secretary-General: Women's economic empowerment in the changing world of work*.

https://www.un.org/ga/search/view_doc.asp?symbol=E/CN.6/2017/3&Lang=E

1. (a) According to the CEADW in Source 1, what should be eliminated?

Prejudices and practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

- (b) According to the CEADW in Source 1, who should bear the responsibility in the upbringing and development of children?

It is the common responsibility of men and women responsible for taking care of the children.

2. (a) Comparing Source 2 and Source 3, what is the contradiction?

Source 2 has mentioned that in 18 countries, husbands can legally prevent their wives from working. Meanwhile, Source 3 shows that the husband is taking care of the baby at home while the wife is working outside.

- (b) Source 2 mentioned that “husbands can legally prevent their wives from working”. Which social and cultural pattern in Article 5 of the CEADW in Source 1 is it based on?

The idea of inferiority and superiority of either of the sexes.

3. (a) According to Source 4, what is the importance of women bearing the unpaid care and domestic work to the economy?

Unpaid work supports the economy and makes up for lack of public expenditure on social services and infrastructure.

- (b) According to Source 4, what positive effects will be created by the policies reducing and redistributing women’s and girls’ unpaid care and domestic work?

They can create employment, improve women’s labour force participation and increase retention of girls in school.

- (c) Apart from the policies mentioned in Source 4, what is the other solution that can effectively reduce and redistribute women’s and girls’ unpaid care and domestic work (referring to source 2)?

The promotion of shared responsibility within the household and the family.

Worksheet 17: Rights and duties related to the elimination of prejudice and discrimination (2)

Read Source 1 to Source 4 and then answer the questions.

Source 1: Preamble and Article 20 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICCPR)

Preamble

... Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant...

Article 20

1. Any propaganda for war should be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Source: Constitutional and Mainland Affairs Bureau, the Government of the Hong Kong Special Administrative Region of the People's Republic of China, International Covenant on Civil and Political Rights.

<https://www.cmab.gov.hk/en/issues/human.htm>

Source 2: Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination...

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Source: Constitutional and Mainland Affairs Bureau, the Government of the Hong Kong Special Administrative Region of the People's Republic of China, International Convention on the Elimination of All Forms of Racial Discrimination.

<https://www.cmab.gov.hk/en/issues/human.htm>

Source 3: Article 5 Equality and non-discrimination of the Convention on the Rights of Persons with Disabilities (CRPD)

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
 2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
 3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
- ...

Source: Labour and Welfare Bureau, the Government of the Hong Kong Special Administrative Region of the People's Republic of China, United Nations Convention on the Rights of Persons with Disabilities.

https://www.lwb.gov.hk/en/highlights/UNCRPD/Publications/22072008_e.pdf

1. (a) According to the ICCPR in Source 1, apart from recognizing various civil and political rights, what should be borne by an individual to other individuals and the community to which he belongs?

Duties.

- (b) According to the ICCPR in Source 1, what situations should be prohibited by law by States Parties?

(i) Any propaganda for war.

(ii) Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

- (c) Why does the ICCPR in Source 1 require States Parties to prohibit by law the situations mentioned in the answer to Question 1(b)?

If the situations are allowed to continue, people will be plunged into an abyss of misery.

2. According to the ICERD and the CRPD in Source 2 and Source 3, what kind of behaviours should be prohibited? What measures should be adopted by the States Parties? Try to complete the table below.

	Behaviours to be prohibited	Measures
ICERD	<ul style="list-style-type: none"> • <i>Discrimination on the basis of race, colour or ethnic origin</i> 	<ul style="list-style-type: none"> • <i>Punishable by law</i>
CRPD	<ul style="list-style-type: none"> • <i>Discrimination on the basis of disability</i> 	<ul style="list-style-type: none"> • <i>Guarantee to persons with disabilities equal and effective legal protection</i> • <i>Reasonable accommodation is provided</i>

Worksheet 18: Rights and duties related to the elimination of prejudice and discrimination (3)

Read Source 1 and Source 2 and then answer the questions.

Source 1: Measures to facilitate electors with disabilities and ethnic minorities electors to vote

There are 495 ordinary polling stations for this year's District Council Elections and more than 94 percent of which are accessible to wheelchair users.

The Registration and Electoral Office (REO) provides braille lists of candidates and braille templates to help electors with visual impairment to cast their votes. REO also provides a pictorial voting aid to assist electors with hearing impairment.

In order to cater for the electors of ethnic communities, electoral information is available on the dedicated website in a number of ethnic minority languages, including Hindi, Bahasa Indonesian, Nepali, Punjabi, Tagalog, Thai, and Urdu.

The REO provides free telephone simultaneous interpretation service for electors in collaboration with the Centre for Harmony and Enhancement of Ethnic Minority Residents during the two weeks prior to and on the polling day.

Source: EOC welcomes facilitation measures for people with disabilities and ethnic minorities to cast their votes at polling stations, Press releases, Equal Opportunities Commission, (19 November 2015)

<https://www.eoc.org.hk/eoc/graphicsfolder/ShowContent.aspx?ItemID=13414>

Source 2: Discrimination laws

Hong Kong's anti-discrimination ordinances - the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance (DDO), the Family Status Discrimination Ordinance (FSDO), and the Race Discrimination Ordinance (RDO) - prohibit discrimination against a person on the grounds of sex, marital status, pregnancy, disability, family status, and race. These ordinances are applicable in different areas, including employment; education; provision of goods, services, or facilities; and disposal or management of premises. Real estate agents and landlords are bound by these ordinances.

2. When does discrimination happen?

Discrimination occurs when a person is treated less favourably on account of one of the prohibited grounds mentioned above, or when the same requirement is applied to all persons but is in practice discriminatory in its effect. Discrimination may arise in circumstances such as the following:

- When a landlord refuses to rent his/her property, or an estate agent refuses to provide service to a prospective tenant because he/she comes from a certain race or has a disability;
- When a landlord refuses to rent his/her property to, or an estate agent refuses to serve a prospective tenant because of the race or disability of the tenants near relative;
- When a landlord requires a prospective tenant to submit his/her tax return or a letter of guarantee from the tenant's employer, which are not normally required, because of his/her race or family status;
- When a landlord evicts a tenant because of any prohibited ground under the anti-discrimination ordinances, i.e., sex, marital status, pregnancy, family status, disability and race.

Source: Equal Opportunities Commission, What You Should Know as a Real Estate Agent, Landlord, Tenant, or Home Buyer,
<https://www.eoc.org.hk/en/Racial-Equality/What%20You%20Should%20Know>

1. (a) According to Source 1, which groups of persons with disabilities does the HKSAR Government provide special arrangements during the District Council Elections?

Wheelchair users, persons with visual impairment and hearing impairment.

-
- (b) Source 1 mentions that the HKSAR Government provides special arrangements for people with disabilities and ethnic minorities when preparing for the District Board Elections. What kind of rights can be exercised by these people, on an equal status with others, by such arrangements?

Right to vote.

2. (a) According to Source 2, on what grounds do the discrimination laws of Hong Kong prohibit discrimination against a person?

On the grounds of sex, marital status, pregnancy, disability, family status, and race.

- (b) Which international conventions are the discrimination laws of Hong Kong in Source 2 related to?

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) , Convention on the Elimination of All Forms of Discrimination against Women (CEADW) , Convention on the Rights of Persons with Disabilities (CRPD) and Convention on the Rights of Child (CRC).

3. (a) Which positive value is related to the facilities, services, and discrimination laws mentioned in Source 1 and Source 2?

Inclusiveness, empathy

- (b) Hence, what kind of society does this positive value help to build?

Diverse and inclusive society.

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