



CHINA (HONG KONG): SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE

135TH SESSION (27 JUNE to 29 JULY 2022)

Introduction

CIVICUS: World Alliance for Citizen Participation provides the following information with respect to human rights in China (Hong Kong) to the United Nations (UN) Human Rights Committee (the Committee) in advance of its fourth periodic review of Hong Kong's obligations under the International Covenant on Civil and Political Rights (ICCPR) by the Committee at its 135th session.

Article 39 of the Hong Kong Basic Law,¹ the constitutional document for the Hong Kong Special Administrative Region, stipulates that the provisions of the ICCPR shall remain in force and shall be implemented through the laws of Hong Kong. The enactment of the Hong Kong Bill of Rights Ordinance (BORO) 1991² officially incorporated the ICCPR into Hong Kong's domestic laws.

In this document, CIVICUS sets out its main concerns regarding the implementation of the ICCPR by Hong Kong, focusing on civic space issues, and specifically, the rights to freedom of expression (Article 19), freedom of peaceful assembly (Article 21) and freedom of association (Article 22).

Freedom of expression (Article 19)

Freedom of opinion and expression is guaranteed under Article 16 of the Bill of Rights Ordinance. However, CIVICUS has documented an alarming deterioration of the right to freedom of expression in Hong Kong since 2018, including the use of restrictive laws to silence dissent and criminalise human rights defenders and journalists, restrictions on press

¹ The Basic Law of the Hong Kong Special Administrative Region of the People's Republic Of China (HKSAR), https://www.basiclaw.gov.hk/filemanager/content/en/files/basiclawtext/basiclaw_full_text.pdf

² 'Cap. 383 Hong Kong Bill of Rights Ordinance', Hong Kong e-Legislation, <https://www.elegislation.gov.hk/hk/cap383>

freedom and a crackdown on journalists and media outlets as well as efforts to silence other forms of expression including academic freedom.

Use of National Security Law against activists

On 30 June 2020, China's top legislature unanimously passed a new national security law for Hong Kong that entered into force in the territory the same day.³ Its passage bypassed Hong Kong's legislative council and the law itself contains dangerously vague and broad provisions.

The National Security Law (NSL) punishes four types of activities: secession (Articles 20-21), subversion (Articles 22-23), terrorism (Articles 24-28) and collusion with "foreign forces" (Articles 29-30), all carrying a maximum sentence of life in prison. These offences are vaguely defined and have easily become catch-all offences to prosecute activists and critics with heavy penalties.

The NSL established new national security bodies, which are partially or fully controlled by People's Republic of China (PRC) officials. This is in violation of the Hong Kong Basic Law. It gives Hong Kong police sweeping new powers, including to conduct searches without warrants and carry out covert surveillance, and to seize travel documents of those suspected of violating the security law.

The law appears to contravene the UN Basic Principles on the Independence of the Judiciary and enforcement of the law would undermine the right to a fair trial by a competent, independent and impartial tribunal.⁴ The fair trial concerns include Article 44 of the law that empowers the Chief Executive to designate judges to specifically hear cases regarding national security, raising concerns about impartiality. Further, under Article 65 of the law, the power of interpretation is vested in the Standing Committee of the National People's Congress rather than the judiciary, which is inconsistent with the Basic Principles. Also, Article 55 says that China's national security office in Hong Kong could exercise jurisdiction over "complex" or "serious" cases, which creates the potential for confusion about the appropriate jurisdiction for criminal cases.⁵

UN experts have expressed concerns that the provisions adopted in the NSL do not conform with international legal obligations, in particular ICCPR. Specifically, they raised concerns 'that the law lacks precision in key respects, infringes on certain fundamental rights and may

³ 'China Deploys Security Law Against Hong Kong Activists as Persecution of Critics And Uighurs Persist', CIVICUS Monitor, 6 October 2020, <https://monitor.civicus.org/updates/2020/10/06/china-deploys-security-law-against-hong-kong-activists-persecution-critics-and-uighurs-persist/>

⁴ 'Advocacy brief: Hong Kong', CIVICUS, July 2021, <https://civicus.org/documents/CIVICUSMonitorBrief.HongKong.pdf>

⁵ 'China (Hong Kong SAR): The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', International Commission of Jurists (ICJ), July 2020, <https://www.icj.org/wp-content/uploads/2020/07/Hong-Kong-National-Security-Law-Briefing-Paper-ENG-2020pdf.pdf>

not meet the required thresholds of necessity, proportionality and non-discrimination under international law'.⁶

A day after the law was passed, 10 people were arrested for breaching the NSL, including for showing leaflets and banners with reference to 'Hong Kong Independence'. All 10 were charged with inciting or abetting secession or subversion. Hong Kong police arrested four former members of the pro-independence student group Studentlocalism on 29 July 2020 on suspicion of inciting 'secession' for their social media posts.⁷ The group advocated for Hong Kong's independence from China.

Hong Kong authorities issued arrest warrants on 31 July 2020 for six pro-democracy activists on suspicion of violating the NSL. All six – Nathan Law, Wayne Chan Ka-kui, Honcques Laus, Samuel Chu, Simon Cheng and Ray Wong Toi-yeung – have since left the country.

In August 2020, more than 200 Hong Kong police officers raided the headquarters of Apple Daily, a major pro-democracy newspaper, and arrested its founder and pro-democracy activist Jimmy Lai under the NSL on suspicion of colluding with foreign forces to endanger national security, conspiracy to defraud and intention to incite secession. The charges against Lai seem to stem from his financial support to the group Stand With Hong Kong, which advocated for sanctions against key Hong Kong officials during the 2019 protest movement.⁸

In January 2021, 55 people, including pro-democracy activists, opposition candidates, former lawmakers and lawyers, were arrested and detained under the NSL. They were accused of 'subverting state power' by holding and participating in primary elections held by Hong Kong's pro-democratic party in July 2020. They were then released on bail. On 28 February 2021, police in Hong Kong charged 47 of the activists.⁹ At their bail hearing two months later, more than 30 of them were remanded in custody. They have been in jail ever since.¹⁰

On 23 June 2021, Tong Ying-kit, the first person charged under the NSL, went on trial. He was accused of 'secession' and 'terrorism' for riding a motorbike carrying a flag bearing the

⁶ Communication by UN experts to the Hong Kong Special Administrative Region, OHCHR, 1 September 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487>

⁷ 'China Deploys Security Law Against Hong Kong Activists As Persecution Of Critics And Uighurs Persist', CIVICUS Monitor, 6 October 2020, <https://monitor.civicus.org/updates/2020/10/06/china-deploys-security-law-against-hong-kong-activists-persecution-critics-and-uighurs-persist/>

⁸ 'China Deploys Security Law Against Hong Kong Activists As Persecution Of Critics And Uighurs Persist', CIVICUS Monitor, 6 October 2020, <https://monitor.civicus.org/updates/2020/10/06/china-deploys-security-law-against-hong-kong-activists-persecution-critics-and-uighurs-persist/>

⁹ 'Systematic Persecution Of Activists, Journalists And Critics In Mainland China And Hong Kong', CIVICUS Monitor, 19 May 2021, <https://monitor.civicus.org/updates/2021/05/19/systematic-persecution-activists-journalists-and-critics-mainland-china-and-hong-kong/>

¹⁰ 'Denial of bail is silencing Hong Kong's democrats', BBC News, 28 April 2022, <https://www.bbc.com/news/world-asia-china-61235777>

common protest slogan ‘Liberate Hong Kong, revolution of our times’.¹¹ The trial, before three judges and without a jury, was the first held under the legislation. On 30 July 2021, a Hong Kong court sentenced Tong Ying-kit to nine years in jail.

Hong Kong police arrested three student activists from the pro-democracy group Student Politicism on 20 September 2021 for ‘subversion’ under the NSL over the group’s welfare programme for prisoners and its street booths and social media content.¹² On 11 November 2021, a Hong Kong court sentenced Ma Chun-man to five years and nine months in prison for ‘incitement to secession’ for shouting slogans that advocate Hong Kong independence. Ma’s conviction was linked to having shouted and displayed slogans between August and November 2020.¹³

On 23 November 2021, Tony Chung, a student activist in Hong Kong, was found guilty of secession, money laundering and conspiracy to publish seditious material under the NSL and sentenced to three years and seven months in prison. The charges related to his leadership of Studentlocalism, which he established as a student.¹⁴

On 14 March 2022, Hong Kong Watch said it had received a formal warning from the Hong Kong Police Force’s National Security Department to shut down its website for allegedly violating the NSL. The letter accused Hong Kong Watch of violating Article 29 of the NSL, which criminalises collusion with foreign forces to endanger national security. It warned that Hong Kong Watch could face a fine of HK\$100,000 (approx. US\$12,800), or its Chief Executive could face three years in jail for the offence. Police confirmed they had blocked Hong Kong Watch’s website in Hong Kong as a result.¹⁵

According to research carried out Georgetown University, 183 people have been arrested in Hong Kong under the NSL between its introduction in July 2020 and March 2022. Bail has been denied to three-quarters of the 113 of these who have been charged. Of all those arrested, only nine have so far been convicted.¹⁶

¹¹ ‘First trial under Hong Kong’s national security law under way’, Aljazeera, 23 June 2021,

<https://www.aljazeera.com/news/2021/6/23/first-trial-under-hong-kongs-national-security-law-gets-underway>

¹² ‘Civil Society Groups Forced To Disband As Activists And Critics Prosecuted In Hong Kong’, CIVICUS Monitor, 19 November 2021, <https://monitor.civicus.org/updates/2021/11/19/civil-society-groups-forced-disband-activists-and-critics-prosecuted-hong-kong/>

¹³ ‘Ongoing Harassment, Prosecution of Activists and Journalists In Hong Kong To Silence Dissent’, CIVICUS Monitor, 23 March 2022, <https://monitor.civicus.org/updates/2022/03/23/ongoing-harassment-prosecution-activists-and-journalists-hong-kong-silence-dissent/>

¹⁴ CIVICUS Monitor, 23 March 2022, op. cit.

¹⁵ CIVICUS Monitor, 23 March 2022, op. cit.

¹⁶ ‘Arrest Data Show National Security Law Has Dealt a Hard Blow to Free Expression in Hong Kong’, ChinaFile, 5 April 2022, <https://www.chinafile.com/reporting-opinion/features/arrest-data-show-national-security-law-has-dealt-hard-blow-free>

Sedition offence deployed to silence dissent

While sedition offences have remained in the Hong Kong Cap. 200 Crimes Ordinance,¹⁷ the post-1997 Hong Kong administration refrained from pursuing such charges as the Basic Law assured the protection of basic human rights in compliance with international human rights conventions. Nevertheless, there has been a shift in the government's use of the law after the enactment of the new national security law in June 2020. Individuals have been targeted under the law for publishing books, uttering slogans, displaying posters and even for clapping in court.

On 23 July 2021, Hong Kong police arrested five people on sedition charges for publishing children's books that allegedly incite hatred towards the city's government. The two men and three women arrested are members of a speech therapists' union which produces books for children.¹⁸

A pro-democracy Hong Kong DJ went on trial on 29 July 2021 for sedition. Tam Tak-chi, 48, better known by his DJ moniker 'Fast Beat', faced multiple sedition charges for slogans he either uttered or wrote between January and July 2020. At the opening of his trial, prosecutors read out those slogans, as well as some pro-democracy speeches Tam gave. The slogans included 'Liberate Hong Kong, revolution of our times', 'Corrupt cops, all of your family go to hell', 'Disband Hong Kong police, delay no more' and 'Down with the Communist Party of China'.¹⁹ On 20 April 2022 he was sentenced to 40 months in jail and fined HK\$5,000 (approx. US\$670) after being found guilty of 11 of the 14 charges against him.²⁰

In August 2021, property manager Kim Chiang Chung-sang appeared at West Kowloon Magistrates' Courts. He has been accused of displaying seditious posters which insulted the judges involved in the city's first national security trial. He was denied bail.²¹ In January 2022, he was sentenced to eight months in jail. In the same month, the District Court jailed Chloe Tso Suet-sum, 45, for over a year for asking a 17-year-old to design and print protest leaflets. Prosecutors said the leaflets contained slogans urging Hong Kong people to build

¹⁷ 'Cap. 200 Crimes Ordinance', Hong Kong e-Legislation,

https://www.elegislation.gov.hk/hk/cap200?xpid=ID_1438402821397_002

¹⁸ 'National security law: Hong Kong police arrest 5 for allegedly conspiring to distribute seditious children's books', South China Morning Post, 22 July 2021, <https://www.scmp.com/news/hong-kong/politics/article/3142036/national-security-law-hong-kong-police-arrest-5-speech>

¹⁹ 'Hong Kong DJ in first 'sedition' trial since handover to China', France 24, 29 July 2021,

<https://www.france24.com/en/live-news/20210729-hong-kong-dj-in-first-sedition-trial-since-handover-to-china>

²⁰ 'Hong Kong jails pro-democracy activist and former DJ for 'uttering seditious words'', The Guardian, 20 April 2022, <https://www.theguardian.com/world/2022/apr/20/hong-kong-jails-pro-democracy-activist-and-former-dj-for-uttering-seditious-words>

²¹ 'Civil Society Groups Forced to Disband as Activists and Critics Prosecuted In Hong Kong', CIVICUS Monitor, 19 November 2021, <https://monitor.civicus.org/updates/2021/11/19/civil-society-groups-forced-disband-activists-and-critics-prosecuted-hong-kong/>

their own army and nation, and also carried black bauhinia flowers, a symbol of the democracy movement.²²

In April 2022, the authorities used the sedition law to arrest six individuals for causing a nuisance, apparently because they clapped during different court hearings between December 2021 and January 2022.²³

Crackdown on the media

Press freedom is under assault in Hong Kong. Media outlets have been targeted with raids and forced to close and journalists have been criminalised. Foreign reporters have also been subjected to new restrictions under the NSL.

Apple Daily founder and activist Jimmy Lai has been detained since December 2020. He is facing multiple charges. In April 2021 he was sentenced to one year and two months in prison for 'unauthorised assembly'.²⁴ On 15 May 2021, authorities announced they had frozen assets belonging to Lai using the national security law. In December 2021, Jimmy Lai was sentenced to 13 further months in prison for taking part in a banned assembly in Hong Kong in 2020.²⁵

On 17 June 2021, Hong Kong authorities arrested five company executives of the Apple Daily news outlet for their role in the publication of more than 30 articles that called on foreign countries to impose sanctions.²⁶ All were charged with 'colluding with a foreign country or with external elements to endanger national security' under the NSL. The media organisation's premises were also raided by 500 police officers who took away computers and documents, including some containing journalistic materials. Following the raid, the board of Next Digital, the newspaper's parent company, announced that the 26-year-old Apple Daily would publish its last edition and shut down operations on 26 June 2021.²⁷

²² 'Hong Kong sees first 'seditious publication' jailings since handover', France 24, 31 January 2022, <https://www.france24.com/en/live-news/20220131-hong-kong-sees-first-seditious-publication-jailings-since-handover>

²³ 'Hong Kong: 'Sedition' arrests after clapping in court a new low for human rights', Amnesty International, 6 April 2022, <https://www.amnesty.org/en/latest/news/2022/04/hong-kong-sedition-arrests-after-clapping-in-court-a-new-low-for-human-rights/> and 'Hong Kong national security police arrest 6 under sedition law over 'causing nuisance' during court hearings', Hong Kong Free Press, 6 April 2022, <https://hongkongfp.com/2022/04/06/hong-kong-national-security-police-arrest-6-under-sedition-law-over-causing-nuisance-during-court-hearings/>

²⁴ 'Systematic Persecution of Activists, Journalists And Critics In Mainland China And Hong Kong', CIVICUS Monitor, 19 May 2021, <https://monitor.civicus.org/updates/2021/05/19/systematic-persecution-activists-journalists-and-critics-mainland-china-and-hong-kong/>

²⁵ CIVICUS Monitor, 23 March 2022, op. cit.

²⁶ 'Apple Daily Editors Arrested Under Hong Kong Security Law', The Diplomat, 17 June 2021, <https://thediplomat.com/2021/06/apple-daily-editors-arrested-under-hong-kong-security-law/>

²⁷ 'Apple Daily: Hong Kong pro-democracy paper announces closure', BBC News, 23 June 2021, <https://www.bbc.com/news/world-asia-china-57578926>

On 23 June 2021, the Hong Kong authorities arrested the lead editorial writer for Apple Daily, journalist Yeung Ching-kee, on suspicion of ‘conspiring to collude with foreign countries or foreign forces’ under the NSL. Yeung has written more than a thousand columns for the newspaper, many of which are critical of Beijing’s crackdown on the city’s pro-democracy movement.²⁸

On 21 July 2021, police arrested pro-democracy newspaper Apple Daily’s former executive editor-in-chief Lam Man-chung at his home in Sai Kung Town on suspicion of ‘colluding with a foreign country or with external elements to endanger national security’, a crime under the NSL. Separately, police rearrested the newspaper’s associate publisher, Chan Pui-man, and editorial writers Yeung Ching-kee and Fung Wai-kong.²⁹

In November 2021, the Hong Kong authorities refused to renew the visa of The Economist’s China correspondent, Sue-Lin Wong.³⁰ The Hong Kong government did not cite any specific reason for declining to renew Wong’s visa. In July 2020, Hong Kong authorities refused to renew New York Times reporter Chris Buckley’s work permit, and a month later, Hong Kong Free Press’s editor Aaron McNicholas was also denied a work visa.³¹

On 29 December 2021, the Hong Kong police raided the premises of Stand News, one of the most prominent independent pro-democracy media in Hong Kong. They also froze its assets and arrested seven people associated with the news site on suspicion of sedition. Among those arrested were the former senior editor Chung Pui-ken and his wife, acting chief editor Patrick Lam, along with four former members of the Stand News board. Chung Pui-ken and Patrick Lam were denied bail and subsequently charged with conspiring ‘to publish and/or reproduce seditious publications’ in contravention of sections 9 and 10 of Cap. 200 Crimes Ordinance.

In a media statement, on 2 January 2022, Citizen News, established in 2017 as an independent non-profit Chinese news site advocating for press freedom, decided to cease its operation effective from 4 January 2022. It cited the worrying environment for press freedom in Hong Kong and the safety and security of its staff as the reasons. Stand News and Citizen News were the only remaining local independent pro-democracy media outlets in the territory.³²

²⁸ ‘Advocacy brief: Hong Kong’ CIVICUS, July 2021,

<https://civicus.org/documents/CIVICUSMonitorBrief.HongKong.pdf>

²⁹ ‘Civil Society Groups Forced To Disband As Activists And Critics Prosecuted In Hong Kong’, CIVICUS Monitor, 19 November 2021, <https://monitor.civicus.org/updates/2021/11/19/civil-society-groups-forced-disband-activists-and-critics-prosecuted-hong-kong/>

³⁰ CIVICUS Monitor, 23 March 2022, op. cit.

³¹ ‘Hong Kong refuses visa renewal for Economist correspondent Sue-Lin Wong’, Committee to Protect Journalists, 15 November 2021, <https://cpj.org/2021/11/hong-kong-refuses-visa-renewal-for-economist-correspondent-sue-lin-wong/>

³² CIVICUS Monitor, 23 March 2022, op. cit.

On 11 April 2022, the authorities arrested a senior journalist, Allan Au, for ‘conspiracy to publish seditious material’ in his contributions to Stand News.³³

Restrictions on academic freedom

Academic freedom has come under serious threat since 2020. Several pro-democracy scholars have had their employment terminated by universities in Hong Kong, while school administrators have been told to help ‘prevent and suppress’ acts that could violate the NSL.³⁴ Academic research is being closely monitored in Hong Kong, and there has been a crackdown on student organisations.

In August 2021, concerns were raised by three UN experts on the erosion of academic freedom in Hong Kong including the disciplining of educators for their social activism, textbook censorship, removal of education components aimed at fostering critical education and increased self-censorship.³⁵

The Chinese University of Hong Kong’s (CUHK) student union formally disbanded in October 2021, eight months after school management cut ties with the body, citing possible national security law breaches. In February 2021, university management imposed a raft of restrictions on the union, including suspending its executive members from ex officio positions on all CUHK committees, and notifying the group it would have to assume legal responsibility for itself by registering as an independent society or company.³⁶

On 3rd February 2022, authorities in Hong Kong refused a visa application for Ryan Thoreson, a US legal scholar specialising in human rights law and LGBTQI+ rights, who said that he had accepted an offer to teach human rights law at the University of Hong Kong but had had his visa denied. The authorities have not given any reason for the decision.³⁷

‘The Pillar of Shame’, a monument at the University of Hong Kong that commemorated the 1989 Tiananmen Square massacre, was removed by workers on 23 December 2021. In October 2021, the university informed the now-defunct candlelight vigil organiser, the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, that it had to remove the statue following ‘the latest risk assessment and legal advice’. Following this, other

³³ ‘Hong Kong journalist arrested for alleged sedition’, Aljazeera, 11 April 2022, <https://www.aljazeera.com/news/2022/4/11/hong-kong-journalist-arrested-for-alleged-sedition-reports>

³⁴ ‘How Hong Kong lost its academic freedom in 2020’, Global Voices, 30 March 2021, <https://globalvoices.org/2021/03/30/how-hong-kong-lost-its-academic-freedom-in-2020/>

³⁵ Communication from UN experts to the HKSAR, (AL CHN 9/2021), OHCHR, 13 August 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26592>

³⁶ ‘National security law: Chinese University of Hong Kong’s student union becomes latest opposition-leaning group to disband under pressure’, Yahoo News, 7 October 2021, <https://sg.news.yahoo.com/national-security-law-chinese-university-053038706.html>

³⁷ ‘CIVICUS Monitor, 23 March 2022, op. cit.

universities in Hong Kong have removed memorials commemorating the Tiananmen Square massacre.³⁸

The Human Rights Committee should recommend that the Hong Kong government:

- Take steps to repeal the NSL as it is not compliant with international human rights law and standards including Articles 14 and 19 of the ICCPR.
- Repeal the sedition provisions in in the Cap. 200 Crimes Ordinance and ensure all other provisions are in line with best practices and international standards in the area of the freedom of expression.
- Drop all criminal proceedings against human rights defenders, activists, journalists, political figures and others who have been targeted solely for the peaceful exercise of their right to the freedom of expression and ensure that those already detained are immediately and unconditionally released.
- Ensure that journalists can work freely and without fear of criminalisation, reprisals or having their work visas revoked for expressing critical opinions or covering topics that the government may deem sensitive.
- Cease unwarranted raids on media outlets and refrain from acts leading to their closure.
- Refrain from interfering in academic intuitions including the work of academics or students and guarantee the exercise of their right to freedom of expression.

Freedom of peaceful assembly (Article 21)

The right to peaceful assembly is guaranteed under Article 17 of the Bill of Rights Ordinance. Despite this, Hong Kong authorities have continued to prosecute and convict peaceful protesters involved in demonstrations, including pro-democracy leaders. They are often charged for organising, inciting participation in or participating in an ‘unauthorised assembly’ under the Cap. 245 Public Order Ordinance, which requires organisers to notify police of demonstrations involving more than 30 people at least seven days in advance, and requires organisers to get a ‘notice of no objection’ from the government before proceeding. The charge of ‘unauthorised assembly’ carries up to five years in prison.³⁹ The United Nations Human Rights Committee has criticised the law, saying that ‘it may facilitate excessive restriction’ of basic rights.⁴⁰

³⁸ CIVICUS Monitor, 23 March 2022, op. cit.

³⁹ CIVICUS, July 2021, op. cit.

⁴⁰ ‘Concluding observations on the third periodic report of Hong Kong, China’, Humans Right Committee, 11–28 March 2013, https://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR-C-CHN-HKG-CO-3_en.doc

Peaceful protesters charged and convicted

On 2 December 2020, a court in Hong Kong sentenced pro-democracy activist Joshua Wong to 13 and a half months in prison under the Public Order Ordinance for organising and inciting an ‘unauthorised assembly’ outside a police station during mass protests against the government in June 2019. The gathering was held to protest against excessive force used by police against protesters, as well as the now-withdrawn extradition bill. Wong’s long-time fellow activists Agnes Chow and Ivan Lam were also sentenced to 10 and seven months in prison for ‘incitement’, referring to their use of a megaphone to shout slogans during the protest.⁴¹

On 6 May 2021, while he was already imprisoned, a court in Hong Kong handed a jail term to Joshua Wong and to three opposition members of the city’s District Council for attending a vigil commemorating the 1989 Tiananmen Square massacre. Wong was sentenced to 10 months’ further imprisonment, and district councillor Lester Shum was sentenced to six months in jail. Fellow councillors Tiffany Yuen and Janelle Leung were each handed four-month sentences. In April 2021, the courts sentenced 10 pro-democracy activists to between eight and 18 months in prison for taking part in two ‘unauthorised assemblies’ on 18 and 31 August 2019 that violated the Public Order Ordinance. The gatherings were part of a series of mass protests triggered by the proposed Extradition Bill.⁴²

On 28 May 2021, eight activists were sentenced for organising an ‘unauthorised assembly’ on 1 October 2019. Jimmy Lai was given a new prison sentence of 14 months. Seven other leading activists, including campaigner Figo Chan, as well as former legislators Lee Cheuk-yan and Leung Kwok-hung, were also given new prison terms of up to 18 months. Two others received suspended sentences.⁴³

On 16 October 2021, seven Hong Kong democracy campaigners, including former lawmakers, were sentenced to up to 12 months in jail for their role in a protest in 2020 against the NSL. The activists included Figo Chan, a former leader of the now-disbanded Civil Human Rights Front (CHRF); Tsang Kin-shing and Tang Sai-lai of the League of Social Democrats; former district councillor Andy Chui; and former legislators Wu Chi-wai, Eddie Chu and Leung Kwok-hung. Chan was jailed for 12 months, while the others were given sentences of between six and 10 months.⁴⁴

⁴¹ ‘China Continues Hong Kong Crackdown, Persecution Of Activists And Journalists For Their Reporting’, CIVICUS Monitor, 21 January 2021, <https://monitor.civicus.org/updates/2021/01/21/china-continues-hong-kong-crackdown-persecution-activists-and-journalists-their-reporting/>

⁴² ‘Systematic Persecution of Activists, Journalists And Critics In Mainland China And Hong Kong’, CIVICUS Monitor, 19 May 2021, <https://monitor.civicus.org/updates/2021/05/19/systematic-persecution-activists-journalists-and-critics-mainland-china-and-hong-kong/>

⁴³ ‘Hong Kong’s Jimmy Lai gets new sentence over democracy protests’, Aljazeera, 28 May 2021, <https://www.aljazeera.com/news/2021/5/28/hong-kongs-jimmy-lai-faces-new-sentence-over-democracy-protests>

⁴⁴ ‘Civil Society Groups Forced To Disband As Activists And Critics Prosecuted In Hong Kong’, CIVICUS Monitor, 19 November 2021, <https://monitor.civicus.org/updates/2021/11/19/civil-society-groups-forced-disband-activists-and-critics-prosecuted-hong-kong/>

A veteran Hong Kong activist was arrested on 4 February 2022 after announcing plans to protest about the Beijing Winter Olympics outside government offices in the city.⁴⁵

Crackdown on Tiananmen Square massacre memorial gatherings

In 2020, the authorities banned the annual Tiananmen Square massacre vigil, usually held on 4 June, citing COVID-19 social distancing restrictions.

On 15 September 2021, nine pro-democracy activists were sentenced to between six and 10 months in prison for taking part in the banned Tiananmen Square massacre vigil in 2020, during which thousands of people gathered to light candles and sing songs in the park. Eight pro-democracy activists were sentenced to up to 14 months in prison in December 2021 for organising, taking part in and inciting participation in the 2020 vigil.⁴⁶

On 4 June 2021, the authorities arrested barrister and activist Chow Hang Tung, vice-chair of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China for breaching section 17A(1D) of the Public Order Ordinance by 'promoting an unauthorised assembly'.

Chow Hang Tung was jailed for 15 months (with five to be served concurrently) under the Public Order Ordinance on 4 January 2022 after she published two pieces calling on residents to light candles in June 2021 to commemorate the Tiananmen Square massacre. The court ruled that those articles amounted to inciting others to defy the police ban on the vigil. It was her second conviction over the banned vigils: Chow had already been sentenced to a year in prison on 13 December 2021 for inciting and taking part in a similar vigil in 2020. This means she will spend a total of 22 months behind bars.⁴⁷

Failure to hold the police accountable for abuses during protests

Police officers have been recorded beating and using pepper spray and teargas on people during protests in 2019, including those subdued on the ground; shooting and blinding several individuals; unnecessarily tackling protesters to the ground, including pregnant women, children and older people; and giving patently improbable and outright false explanations about their actions in press conferences.⁴⁸

Civil society groups have also documented further allegations of torture and other ill-treatment against protesters, including being beaten, kicked, strip searched, sexually

⁴⁵ CIVICUS Monitor, 23 March 2022, [op. cit.](#)

⁴⁶ CIVICUS Monitor, 23 March 2022, [op. cit.](#)

⁴⁷ CIVICUS Monitor, 23 March 2022, [op. cit.](#)

⁴⁸ 'Still no Accountability for Hong Kong's Police Force', Human Rights Watch, 19 November 2020, <https://www.hrw.org/news/2020/11/19/still-no-accountability-hong-kongs-police-force>

assaulted and denied access to medical treatment in detention.⁴⁹ Protesters have been attacked by thugs with impunity. There have been numerous cases of harassment and attacks against journalists, including instances of them being pepper sprayed, assaulted and hit by rubber or sponge bullets.

According to human rights groups, no police officers alleged to have committed abuses during the 2019 protests have been held accountable.

The Human Rights Committee should recommend that the Hong Kong government:

- Abolish provisions in Part III of the Cap. 245 Public Order Ordinance relating to the need for permission for protests and bring the ordinance in line with the ICCPR and other international law and standards.
- Drop all criminal proceedings against activists and protesters who have been targeted solely for the exercise of their right to peaceful assembly and ensure that those already detained are immediately and unconditionally released and sentences are quashed.
- Establish a fully independent, impartial, effective and prompt investigation into all cases of excessive use of force by police, arbitrary arrest and detention of peaceful protesters, allegations of torture and other ill-treatment in detention and the treatment of journalists during protests in 2019 and 2020, and bring those responsible to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

Freedom of association (Article 21)

The right to freedom of association, guaranteed under Article 18 of the Bill of Rights Ordinance, has been undermined by the introduction of the NSL in 2020. This dramatically changed the environment for civil society in Hong Kong, greatly impeding the ability of civil society to carry out their work. The entire staff of some organisations quit on the eve of the law's introduction. While some civil society organisations (CSOs) and movements have disbanded or shut their offices, others have instead exercised greater caution in their activities. Unions have also been forced to disband. The chilling effect of the crackdown on civil society cannot be overstated.⁵⁰

⁴⁹ 'Hong Kong police tortured detainees, says rights group, as UN experts voice concern over leading activists' arrests', HKFP, 14 May 2020, <https://hongkongfp.com/2020/05/14/hong-kong-police-tortured-detainees-says-rights-group-as-un-experts-voice-concern-over-leading-activists-arrests/>

⁵⁰ CIVICUS, July 2021, op. cit.

Disbandment and shutting down of civil society groups

On 15 August 2021, CHRF, the pro-democracy group that organised some of Hong Kong's biggest protests, was disbanded.⁵¹ CHRF, an overarching organisation of local pro-democracy groups, organised mass marches that drew as many as two million participants during the 2019 pro-democracy anti-government protests, according to some estimates. It has long played a critical role in Hong Kong's civil society, as the organiser of the annual 1 July protests that mark the anniversary of the city's handover from the UK to China.

The Hong Kong Alliance in Support of Patriotic Democratic Movements of China decided to disband on 25 September 2021 following increasing pressure on the group by the authorities.⁵² The group had organised the yearly Tiananmen Square massacre commemoration vigil for the past 30 years. Previously, in July 2021, the Hong Kong Alliance laid off its staff and downsized its operations in anticipation of the government's crackdown on the group. On 25 August 2021, police demanded the group's membership list and financial information in an investigation into its alleged 'collusion with foreign powers'. On 9 September 2021, the Hong Kong justice secretary charged the Hong Kong Alliance chair Lee Cheuk-yan and vice-chairs Chow Hang-tung and Albert Ho with 'inciting subversion'.⁵³

On 25 October 2021, global human rights watchdog Amnesty International said it would close its two offices in Hong Kong by the end of the year. The local 'section' office was to cease operations on 31 October and the regional office – which is part of Amnesty's International Secretariat – was closed at the end of 2021. The organisation said the NSL has made it effectively impossible for human rights organisations in Hong Kong to work freely and without fear of serious reprisals from the government.

Efforts to restrict and block access to resources for civil society

Hong Kong's financial services chief warned on 13 September 2021 that groups that 'endanger national security' would lose their status as charities and stop benefiting from tax exemptions. Secretary for Financial Services and the Treasury Christopher Hui Ching-yu said an amended 'tax guide for charitable institutions and trusts of a public character' would

⁵¹ 'Organiser of mass Hong Kong demos Civil Human Rights Front disbands citing 'unprecedented challenges'', Hong Kong Free Press, 15 August 2021, <https://hongkongfp.com/2021/08/15/breaking-organiser-of-mass-hong-kong-demos-civil-human-rights-front-disbands-citing-unprecedented-challenges/>

⁵² 'Hong Kong Tiananmen Massacre vigil group disbands following pressure from authorities', Hong Kong Free Press, 25 September 2021, <https://hongkongfp.com/2021/09/25/breaking-hong-kong-tiananmen-massacre-vigil-group-disbands-following-pressure-from-authorities/>

⁵³ 'National security law: three leaders, group behind Tiananmen vigil in Hong Kong charged with inciting subversion against state power', South China Morning Post, 9 September 2021, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3148114/national-security-law-hong-kong-police-search-june-4>

apply with immediate effect, a move described by analysts as targeting opposition-leaning social welfare or community groups.⁵⁴

Under the current law, charities are exempted from paying tax, and taxpayers also enjoy deductions for making charitable donations. The proposed changes came five days after Hui faced a barrage of questions from pro-establishment lawmakers in the Legislative Council about the 612 Humanitarian Relief Fund, which has paid out more than HK\$243 million (approx. USD\$31.2 million) to those facing criminal prosecution or financial hardship as a result of the 2019 protests.

The city's police force revealed that its National Security Department was investigating the fund – which is said to be a trust – and the Alliance for True Democracy, which provided its bank account to the fund's trustees for holding donations.⁵⁵

Activists in Hong Kong and abroad have turned to crowdfunding to raise funds. In December 2019, police froze the assets of Spark Alliance, a non-profit group that raised money to provide financial aid to Hong Kong protesters, accusing the group of money laundering. In April 2022, the authorities stated that crowdfunding needed to be regulated in order to prevent money from being used for activities endangering national security.⁵⁶

Unions shut down fearing criminalisation

Fears of falling foul of the NSL and facing terms of up to life in jail have seen at least 29 trade unions disband between January and October 2021.

In August 2021, the Hong Kong Professional Teachers' Union (HKPTU) announced its disbandment. The HKPTU, with over 95,000 members, was the city's largest teachers' union, representing over 90 per cent of the profession. It came after the Education Bureau announced its decision to scrap all links with the union on 31 July 2021, hours after the group came under fire in Chinese state media. The state-run People's Daily and news wire Xinhua slammed the union as a 'poisonous tumour' that must be 'eradicated'. A Hong Kong government spokesperson also vilified the union, making reference to its organisation of a teachers' strike during the city's 2014 Umbrella Movement and the publication of teaching materials promoting civil disobedience.

In October 2021, Hong Kong's largest independent trade union, the Hong Kong Confederation of Trade Unions, voted to disband. The 145,000-member was founded in

⁵⁴ 'Groups that endanger national security to lose charities status, tax exemptions, Hong Kong's financial services chief warns', South China Morning Post, 13 September 2021, <https://www.scmp.com/news/hong-kong/politics/article/3148543/groups-endanger-national-security-lose-charities-status-tax>

⁵⁵ 'Civil Society Groups Forced to Disband as Activists and Critics Prosecuted In Hong Kong', CIVICUS Monitor, 19 November 2021, <https://monitor.civicus.org/updates/2021/11/19/civil-society-groups-forced-disband-activists-and-critics-prosecuted-hong-kong/>

⁵⁶ 'Hong Kong urged to regulate crowdfunding to prevent activities 'endangering' China's security', Hong Kong Free Press, 14 April 2022, <https://hongkongfp.com/2022/04/14/hong-kong-urged-to-regulate-crowdfunding-to-prevent-activities-endangering-chinas-security/>

1990. Its vice-president Leo Tang said members of the group had received threats to their personal safety.⁵⁷

The Human Rights Committee should recommend that the Hong Kong government:

- Take measures to foster a safe and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the freedom of association.
- Prevent all forms of criminalisation, threats, attacks, harassment, smear campaigns, intimidation or reprisals against individuals for exercising the right to freedom of association or for their human rights work.
- Remove all undue restrictions on the ability of CSOs to receive international and domestic funding in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of CSOs, human rights defenders, journalists, political activists and others.
- Guarantee the effective and independent functioning of autonomous trade unions by removing proscriptions on the formulation of independent labour unions and undue limitations on the right to strike.

⁵⁷ CIVICUS Monitor, 19 November 2021, op. cit.