

**Ayuba Wabba**

President  
Président  
Präsident  
Presidente

**Sharan Burrow**

General Secretary  
Secrétaire générale  
Generalsekretärin  
Secretaria General

**CCPR**

**Human Rights Treaties Branch**

Office of the UN High Commissioner for  
Human Rights

**LEX/HTUR/PKD/ZMG/MW**

**30 May 2022**

**Written submission to the Human Rights Committee (CCPR) on the implementation of the ICCPR in the Hong Kong Special Administrative Region, China (CCPR 135<sup>th</sup> session 27 June – 29 July 2022)**

The International Trade Union Confederation (ITUC) welcomes the opportunity to make a written contribution on the human rights situation in Hong Kong SAR, China, in advance of the 135<sup>th</sup> session of the CCPR taking place between 27 June – 29 July 2022.

This submission sets out some of ITUC's key concerns and recommendations related to the implementation of the International Covenant on Civil and Political Rights (ICCPR) by the government of the Hong Kong SAR (HKSAR). It highlights concerns with regard to freedom of peaceful assembly (Article 21) and freedom of association (Article 22) with the hope of supporting the Committee's consideration of the 4<sup>th</sup> report by Hong Kong SAR.

Yours sincerely,



General Secretary

**Submitting organisation:**

The International Trade Union Confederation (ITUC) represents 200 million workers in 163 countries and territories and has 332 national affiliates. The ITUC's primary mission is the promotion and defense of workers' rights and interests through international cooperation between trade unions, global campaigning, and advocacy within the major global institutions. Its main areas of activity include the following: human and labour rights; economic and social policy; equality and non-discrimination; and international solidarity. The ITUC enjoys General Consultation Status with the UN ECOSOC.

**Summary:**

The International Trade Union Confederation makes the following observations with respect to the Government of Hong Kong's obligations under ICCPR.

The ITUC and the international trade union movement are deeply concerned with recent developments in Hong Kong SAR. We have been shocked to learn that the ITUC affiliate, the Hong Kong Confederation of Trade Unions (HKCTU) has been effectively forced to invoke the procedure of disbandment in reaction to persistent stigmatization, vilification and attacks on its activities and the use of security forces and the judiciary to intimidate and harass its members for exercising trade union rights and civil liberties.

The HKCTU's decision of disbandment is not an isolated incident but a part of the process of the dismantling of the civil society in Hong Kong since the National Security Law in Hong Kong was enacted in July 2020. In a similar way the authorities attacked other civil society organizations, such as the Hong Kong Alliance in Support of the Patriotic Democratic Movements in China (the Hong Kong Alliance):

At the same time, trade union leaders are facing unprecedented attacks, intimidation and harassment. Lee Cheuk Yan, the General Secretary of the HKCTU and the Chair of the Hong Kong Alliance is currently in jail, being sentenced for organizing and participating in several protests. He faces separate national security prosecution under the National Security Law that could lead to life in prison. Several other trade unions leaders are being prosecuted under the National Security Law, including Carol Ng, chair of the Hong Kong Confederation of Trade Unions (HKCTU), Winnie Yu, chair of the Hospital Authority Employees Alliance (HAEA) and Cyrus Lau, Chair of the Nurse Trade Union, who have also been forced to resign from their posts.

The authorities use oppressive laws, such as the National Security Law, Prevention and Control of Disease (Prohibition on Group Gatherings) Regulation (Cap. 599G), Crimes Ordinance, Trade Union Ordinance, to harass trade unions and their leaders, despite the fact that each of these laws have been criticized for their incompliance with the international human rights and labour standards. Simultaneously, the state-owned media organize the ongoing smear campaign against trade unions and their leaders systematically accusing both national and international trade unions of criminal collusion and threatening national security.

The acute decline of respect for civil liberties and freedom of association raises extremely serious concerns. Trade union rights are seriously under attack. As a result of the concerted persecution campaign trade union movement in Hong Kong is currently ceasing to exist.

Therefore, we request that the Committee expresses concern over the fast-deteriorating human and labour rights situation in Hong Kong in relation to the rights protected by Articles

21 and 22 of the ICCPR and, in the Concluding Observations on the Hong Kong's 4<sup>th</sup> report, requests that the government of the Hong Kong SAR:

- adopts immediate measures to permit the registration and unhindered activity of the independent trade unions;
- immediately stops the prosecutions and intimidations against the trade unions, labour organisations as well as their leaders;
- releases all those arrested, detained or sentenced for attempting to exercise their legitimate trade union and civic rights;
- revises the provisions of the National Security Law, the Public Order Ordinance, Trade Union Ordinance, Crimes Ordinance, Prevention and Control of Disease (Prohibition on Group Gatherings) Regulation (Cap. 599G) in order to make these acts compatible with the ICCPR and ensure that implementation of these acts is also in conformity with the ICCPR as well as other relevant international human and labour rights standards.

## **FREEDOM OF ASSOCIATION (ARTICLE 22)**

### **Trade unions were forced to dissolve their structures in order to protect their leaders and members from persecution by the authorities**

The anti-union campaign by the Chinese and Hong Kong SAR authorities, deregistration of trade unions by the authorities, application of the National Security Law and prosecutions against trade unionists, interference and harassments to trade union activities and restrictions on public access to information has pushed trade unions to dissolve their structures. Trade unions were not able to freely organize their activities and they feared for safety of their members. As a result, the following trade union organizations, including the HKCTU, have started their dissolution:

- On 3 October 2021 the emergency general meeting of the HKCTU adopted its decision to dissolve the organization given impossibility to organize trade union activities and administration and fear for personal security of its leaders and members.<sup>1</sup> Chris Mung, then chief executive of HKCTU, was forced to relocate to the UK before the union disbandment for fear of his personal security. HKCTU Education Foundation Limited, a charity non-profit making company under the HKCTU to provide vocational, labour law, occupational safety and health trainings to workers decided to suspend new training courses after HKCTU's self-disbandment. Chinese state media has been accusing the foundation of receiving foreign funds and donations from the international trade union solidarity organisations. On 12 May 2022, the foundation decided to dissolve itself due to un-mitigated political risks and concerns about the safety of its members<sup>2</sup>.
- ON 13 April 2022, the Hong Kong Journalists Association (HKJA) convened an extraordinary general meeting to consider disbanding as some members are worried about the future of the organization and the safety of its members. HKJA, and its chair, Ronson China have been subject to open threats and smearing campaigns by the

---

<sup>1</sup> For earlier press coverage, see: HKFP, 20 August, <https://hongkongfp.com/2021/09/20/hong-kongs-largest-pro-democracy-union-coalition-to-disband-cites-threats-to-safety/>

<sup>2</sup> Education foundation of defunct Hong Kong pro-democracy labour group disbands citing 'political risk', 12 May 2022, <https://hongkongfp.com/2022/05/13/education-foundation-of-defunct-hong-kong-pro-democracy-labour-group-disbands-citing-political-risk/>

authorities and Chinese state media<sup>3</sup>. The police has alleged collusion and seditious publications crimes to prosecute 15 news media executives and journalists leading to the closing of the Next Media Group and Apple Daily under it on 24 June 2021, the non-profit news outlets, Stand News on 29 November 2021 and Citizen News on 4 January 2022.<sup>4</sup>

- On 10 August 2021 the leadership of the Hong Kong Professional Teachers' Union (HKPTU), the largest independent trade union of 95 000 members with 48 years history, announced the intent to invoke the dissolution procedure as a result of tremendous pressure and systematic attacks by the authorities and the state-owned media. Prior to this dramatic decision the HKPTU undertook several attempts to satisfy the authorities. In March 2021 the HKPTU withdrew its participation in the social movement organizations such as the Civil Human Rights Front (CHRF) and in the Hong Kong Alliance. The HKPTU also disaffiliated from the HKCTU and from the Education International "to focus on education and members' welfare", as demanded by the authorities.<sup>5</sup> However, this limitation of legitimate trade union affiliations has not satisfied the authorities whose attacks continued.

On 1 August, the Hong Kong Education Bureau announced cease of recognition and working relations with the HKPTU including complaints handling referred by the union.<sup>6</sup> On 16 August, the Secretary of Security pledged to pursue legal accountability of the crimes committed by any individuals or disbanded organizations and further accused the HKPTU of political actions and inciting and instilling "wrong" ideologies amongst teachers and students.<sup>7</sup> The Executive committee adopted the dissolution decision on 10 October 2021.

- Medicine Inspires, a professional organization of medical professional and doctors formed in 2015 to advocate policies, human rights and represent the medical profession in functional constituency elections, took decision about dissolution on 30 June 2021. The organization has opposed the excessive use of tear gases for causing serious damages to the protesters and the intrusions of the police in hospital wards during the 2019 protests.
- In January 2021 the Union of New Civil Servants (UNCS) took decision about dissolution, following the Civil Service Bureau's introduction of the new oath of loyalty required of all regular and contractual civil servants based on the content of the National Security Law. UNCS considered that the oath would leave no space for the union and its members to freely express opinions, make speeches or conduct freely its activities. The government demanded 180,000 regular civil servants to take an oath and sign on a declaration of loyalty to the Chief Executive and the government in

---

<sup>3</sup> SCMP, 23 April 2022, <https://www.scmp.com/news/hong-kong/politics/article/3175305/hong-kongs-largest-journalist-group-holds-meeting-discuss>

<sup>4</sup> International Federation of Journalists, 21 April 2022, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/hong-kong-hkja-considers-disbanding-amidst-growing-safety-concerns.html>

<sup>5</sup> Hong Kong Free Press, 5 August 2021, <https://hongkongfp.com/2021/08/05/embattled-hong-kong-teachers-union-withdraws-from-pro-democracy-group-and-intl-body/>

<sup>6</sup> <https://www.scmp.com/news/hong-kong/education/article/3143310/biggest-hong-kong-teachers-union-malignant-tumour-say>.

<sup>7</sup> Hong Kong Government, 16 August, [https://www.sb.gov.hk/eng/articles/articles\\_2021\\_08\\_16.html](https://www.sb.gov.hk/eng/articles/articles_2021_08_16.html).

December 2020 to reflect the content of the NSL in their work and private conduct.<sup>8</sup> The request has expanded to cover the contractual staff and eventually to the government funded and public institutions. The declaration and the annexes mirror the legal offences in the NSL to restrict civil servants' speeches, conduct and behaviours at work and in private. Constitution of a breach of oath is up to the interpretation of the Chief Secretary and criminal liability is incurred. Under Article 10, 12-14 of the Annex to the declaration, it becomes impossible for civil and public servants to freely express trade union opinions or to join an organization or activity deemed by the authority to be inciting discontent, aggravating social instability or undermining the capabilities of the government. Leaders of the Union for New Civil Servants protested the oath requirement and disbanded itself in January 2021 before the deadline of returning the declarations.<sup>9</sup> By April, 129 civil servants refusing to sign the declarations have been suspended or terminated. The UNCS was disbanded on 16 January 2021.

- Other unions disbanded by July 2021 include the Hong Kong Pharmaceutical and Medical Device Union, Hong Kong Educators Alliance, Frontline Doctors' Union, Hong Kong Pharmaceutical and Medical Device Union, Financial Technology Professional Services Personnel Union, Hong Kong Teaching and Research Support Staff Union and Next Media Trade Union (NMTU).

In a similar way, the authorities push other civil society organizations that have long history of cooperation with independent trade unions to cease activities in Hong Kong or to dissolve.

- In September 2021, following the smear campaign in the media, the Asia Monitor Resource Centre (AMRC) announced that it was given no choice but to cease operation in Hong Kong by the end of September.<sup>10</sup>
- Civil Human Rights Front<sup>11</sup> (CHRF) which was formed in 2002 as a platform of at its peak 48 civil society and labour organisations including the HKCTU announced on 13 August to disband itself after 3 months of intensive attacks by the state media alleging it of receiving foreign funding to instigate anti-government activities. The CHRF has refused to provide information demanded by the police about its registration, finances, the rallies organized since 2006, and the petition to the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the International Human Rights Day in 2020.<sup>12</sup>
- On 5 September 2021, the HK Alliance announced to invoke the dissolution procedure under enormous pressure of the prosecution against the organization and its leaders of inciting subversion. The organization has become paralysed with all of its executive committee members under prosecution and custody.

---

<sup>8</sup> <https://www.scmp.com/news/hong-kong/politics/article/3118082/hong-kong-unions-likely-tread-carefully-mandatory>

<sup>9</sup> <https://www.scmp.com/news/hong-kong/politics/article/3118044/civil-service-union-formed-during-hong-kong-protests>

<sup>10</sup> AMRC, Facebook, 16 August, <https://www.facebook.com/AMRCHK/>

<sup>11</sup> The CHRF operated with a convener to promote civil rights education and organize the annual 1 July rally on a variety of themes to demand universal suffrage, social welfare and civil liberties decided by the members.

<sup>12</sup> HKFP, 27 April 2021,



The ITUC and the international trade union movement are deeply concerned with the developments in Hong Kong which we see as the acute decline of respect for civil and political liberties and trade union rights. By the end of 2021, 65 trade unions had disbanded themselves or withdrawn trade union registration.<sup>13</sup>

### **Deregistration of trade unions**

The Government continued to use discretionary powers under the Trade Union Ordinance and the National Security Law to dismantle the trade union movement. Under the Trade Union Ordinance (TUO, Articles 7, 10, 17, 18, 27, 34, 37, 38), the Registrar of Trade Unions (the Registrar, RTU) enjoys wide discretionary power to scrutinize trade union by-laws, activities, finances, to inspect trade union accounts, to refuse registration or to de-register a trade union.<sup>14</sup> Since May 2021 the authorities were using Article 10 (1) (b) (iii) of the TUO which allows cancelling of a trade union registration if “the trade union is being used, or has at any time since registration been used, for any unlawful purpose or for any purpose inconsistent with its objects or rules” as basis for deregistration proceedings of numerous trade unions. Another legal base used for trade union deregistration was Article 34 of the TUO which prohibits the use of trade union funding for “political” purpose. Provisions of the TUO were interpreted very broadly. The authorities were opening deregistration procedures while simultaneously demanding excessive amount of information from trade union organizations. The labour authorities argued that these actions were part of the government's new duties under the National Security Law.<sup>15</sup>

- On 23 July 2021 the Registrar of Trade Unions (RTU) summoned the General Union of Hong Kong Speech Therapists (GCHKST) to provide, before the deadline of 13 October 2021, detailed information about its activities. The authorities specifically demanded full details of the union’s participation in the public assembly on 12 January and 19 January 2020. These assemblies were calling for international pressure and sanctions over the suppression of the 2019 protests. The union was also asked to provide full information on its participation in the trade union referendum joined by 33 unions to collect members’ opinions on the passing of the National Security Law on 20 June 2020, specific speeches made by the union, as well as the union goals posted on its website declaring support for public justice, human rights and universal values. Simultaneously, the Registrar has opened de-registration proceedings against the GCHKST, based on a the alleged suspicion that the union is being used for unlawful purpose or purpose inconsistent with its objects or rules (Article 10(1)(b)(iii) of the TUO). The GCHKST was de-registered on 13 October 2021 (Gazette: 22 October 2021).
- On 3 September 2021 the Registrar summoned the Hospital Authority Employees’ Alliance (HAEA).The authorities demanded the union to specify the funding, decision making procedures and the role of the individual office bearers in relation to eight activities specified by the authorities. The investigated activities included legitimate trade union activities, such as:
  - o HAEA’s strike to demand occupational safety and health measures for its members in the public hospitals and border control with China to prevent

<sup>13</sup> The statistics are given by the Department of Labour to a press inquiry. Source original in Chinese: Radio Free Asia, 24 January 2022, <https://www.rfa.org/cantonese/news/htm/hk-unions-01242022092158.html>

<sup>14</sup> HK government, [Cap. 332 Trade Unions Ordinance \(elegislation.gov.hk\)](https://www.elegislation.gov.hk)

<sup>15</sup> RTHK News (2021-05-16) “Labour chief's national security warning to unions”, available at: <https://news.rthk.hk/rthk/en/component/k2/1591184-20210516.htm>

collapse of the public health system brought by un-known sources of infection to Hong Kong in February 2020;

- participation of HAEA's chair, Winnie Yu in the democrats' primary election in July 2020;
- HAEA's public calls, comments and public appeal about the digital security of the government's covid-19 track app, the health risks of the Sinovac; the private screenings organized in 2021 on the rule of law;
- the letter writing campaign for Winnie Yu in 2021;
- HAEA's public activities on the anniversary of the 2019 protests and 4 June commemorations in 2021.

The HAEA submitted replies that its activities are in line with the union goals and they should be protected under the Basic Law and ILO Convention No 87.<sup>16</sup>

- Since 2021 the Registrar has invoked Section 10 of the TUO against other trade unions: the Hong Kong White Collar (Administration and Clerical) Connect Union (HKWCCU) in December 2021;<sup>17</sup> the Hong Kong Financial Industry Employees General Union (HKFU) in December 2021; and the Hong Kong Journalists Association (HKJA) in January 2022.<sup>18</sup>
- Between March and May 2021 warning letters were sent to 3 trade unions - the Environmental Education & Ecological Conservation Workers' Union on 11 March 2022, the Hong Kong Music Industry Union on 7 March 2022, and the Accounting Bros'Sis Labour Union on 20 May 2022 - accusing them of breaching the restrictions on usage of trade union funds for activities under section 33 and 34 of the TUO and threatening de-registration. Moreover, the Registrar targeted the speeches and comments made by the union representatives which criticized the national security law and the arrests of trade unionists, as well as their solidarity campaigns for the trade union candidates standing in the pro-democrats' primary elections and the unions' June-Fourth commemoration activities.

We demand immediate measures to revise the restrictive provisions under the TUO not compatible with the principle of freedom of association and the ICCPR and guarantee unhindered activity of the independent trade unions.

### **Excessive information surveillance and investigation imposed on trade unions**

The authorities used several legal instruments to impose excessive information surveillance and investigation on trade unions and related civil society organizations. Following the forced decision of self-disbandment made by the HKCTU, four of the former executives - ex-general secretary of the HKCTU Lee Cheuk Yan, in prison, ex-president Joe Wong, ex-vice-chair Leo Tang, and ex-treasurer Chung Chung-fai - were served notice by police on 17 February 2022 to provide detailed information on the administration of the defunct union under section 15 of Cap. 151 Societies Ordinance.<sup>19</sup> The executives were asked to provide details of the union'

<sup>16</sup> HKFP, 17 September 2021, <https://hongkongfp.com/2021/09/17/hong-kong-hospital-authority-union-denies-govt-allegation-it-broke-law/>

<sup>17</sup> Hong Kong authorities grill union which held street stalls on Covid-19 and national security law, 11 JANUARY 2022, [HKFP https://hongkongfp.com/2022/01/11/hong-kong-authorities-grill-union-which-held-street-stalls-on-covid-19-and-national-security-law/](https://hongkongfp.com/2022/01/11/hong-kong-authorities-grill-union-which-held-street-stalls-on-covid-19-and-national-security-law/)

<sup>18</sup>

<sup>19</sup> Hong Kong national security police ask former Confederation of Trade Unions members to provide information on disbanded group's finances, operations, SCMP, 17 February 2022,

activities, finances, affiliation information, as well as the names and contacts of its members, office-bearers and the union's webpage administrator. The enquiry further covered the role of the HKCTU in a number of labour strikes in 2019, in the Legislative Council elections in 2020, as well as the union's cooperations with a list of international trade unions and solidarity organisations. The four leaders were liable to summary conviction of a fine of USD 3,185 under Article 16(2) of the Societies Ordinance if they failed to provide information or provide false information. Later, on 31 March 2022, Joe Wong, Leo Tang and Chung Chung-fai and Lee were taken by national security police for alleged failure to provide information.<sup>20</sup> The national security police also searched the homes of the four leaders, the HKCTU's office in Yau Ma Tei which was shared with the affiliated unions before its self-disbandment, as well as the union training centre and the union's rented storage unit to take away their personal computers and data as well as union materials. The three leaders, except of Lee Cheuk Yan who was already in prison, were released the next day after surrendering their travelling documents.

### **State-owned media campaign against trade unions**

Since 2021 trade unions in Hong Kong are being subjected to a systematic, organized anti-union campaign orchestrated by the authorities and the Chinese state-owned media operating in Hong Kong. Various authorities, including the Hong Kong and Macau Affairs Office of the PRC State Council, the Liaison Office of the Central People's Government in Hong Kong SAR (HK Liaison Office), and the Secretary of Security of Hong Kong SAR, have publicly labelled the targeted unions as political organizations and not legitimate trade unions. A large volume of false investigative stories have been aired presenting trade union activities, their participation in social movements, liaisons with international organisations, including international trade unions, as anti-government activities and acts of collusion with foreign forces to threaten national security. Below are illustrative cases of the negative state media's coverage on the trade unions in 2021 and 2022:

- On 30 and 31 July 2021 Chinese state-owned Xinhua News and the People's Daily in Beijing aired a material about the Hong Kong Professional Teachers' Union (HKPTU) in which the trade union was called a political organization, condemned for its long-term participation in the local democratic movement, accused of "inciting" teachers and students to join the anti-extradition protests and general strikes in 2019 and called 'a tumor to be removed'. The union's insistence on education autonomy against government-led national education in 2012 and union opposition to the revision of the syllabus of liberal studies were labelled as anti-government. The HKPTU has been a target of similar media attacks throughout August 2021. Later materials by the same media included calls on members to quit the HKPTU and on the authorities to criminally investigate the organization.
- since August 2021, the same media aired materials on the Hong Kong Confederation of Trade Unions (HKCTU) and its international affiliations and contacts, including with the ITUC. These affiliations were presented as evidence of collusion with foreign agents and foreign anti-China organizations. The HKCTU was accused of reception of foreign funding, specifically in context of organization of "anti-China" campaigns in 2019 and 2020, instigating unlawful labour strikes, supporting creation of "radical" anti-government trade unions. On 3 September 2021, the HKCTU and its leaders were

---

<https://www.scmp.com/news/hong-kong/law-and-crime/article/3167371/hong-kong-national-security-police-ask-former>

<sup>20</sup> Hong Kong national security police quiz ex-leaders of disbanded pro-democracy union – reports, 31 March, 2022, HKFP, <https://hongkongfp.com/2022/03/31/hong-kong-national-security-police-quiz-ex-leaders-of-disbanded-pro-democracy-union-reports/>



attacked by Xinhua News and the People's Daily for affiliating with the ITUC and participating in the activities of the ITUC. The 13 September headline stories reasserted many of these accusations and aired close-up pictures of the HKCTU leaders from internal trade union meeting and private gatherings with friends.

- Asia Monitor Resource Centre (AMRC), a well-known, Hong Kong-based regional labour organization, was accused of being controlled by the ex-staff of HKCTU to act as a foreign agent to channel funds from the US and other sources to conduct anti-China activities in the past 26 years.
- Hong Kong Journalists' Association was called a seedbed of fake journalists that impeded the police's operations in the protests in 2019; the union's activities to promote press freedom in schools were called infiltrations to toxify students with wrong ideologies; the Secretary of Security on 15 September further urged the union to disclose its membership and income sources.
- A number of trade unions formed during the anti-extradition bill protests in 2019 were named and their activities were labelled as political and of anti-government character.
- Leaders of Hong Kong Social Workers' General Union (HKSWGU) were called protectors of the rioters blocking the police operations in the 2019 protests.
- On 1 and 2 April 2022, the Chinese state media continued to accuse the dissolved HKCTU of various crimes of collusion. The media also were accusing the ex-staff of the HKCTU and its affiliated organizations for "still being active".<sup>21</sup>

The anti-union campaign by the state media seriously hampers trade unions' ability to organize their activities and to liaise with their partners without fear of arrest and prosecution.

## **LAWS ON NATIONAL SECURITY – IMPACT ON FREEDOM OF ASSOCIATION (FREEDOM TO FORM AND JOIN TRADE UNIONS) (ARTICLE 22)**

Below are observations on the impact of the National Security Law (NSL) on freedom of association (right to form and join trade unions) under Article 22 ICCPR. We note that the National Security Law impacts simultaneously on other fundamental human rights of workers, protected by Articles 7, 9, 10, 14, 15, 17, 18, 19, 21 and 25 ICCPR.

### **Application of the National Security Law and prosecutions against trade unionists**

Reportedly, since the enactment of the NSL on 30 June 2020, the police has arrested 175 persons for alleged offences endangering national security, prosecuted 112 of them and 5 companies belonging to 2 news media groups. Only 59 of the persons charged have been granted bail while 78 others remain under pre-trial detention including 8 trade unionists.<sup>22</sup>

The Hong Kong Confederation of Trade Unions (HKCTU) has been member organization of the Chair of the Hong Kong Alliance in Support of Patriotic Democratic Movements in China (HK Alliance) since its creation in 1989. Trade unions collaborated in the HK Alliance's activities, including the annual candlelight vigil on 4 June. Lee Cheuk Yan, ex-General Secretary of the HKCTU was also Chair of the HK Alliance. Accordingly, sanctions adopted against the HK Alliance affected the trade union movement and the HKCTU. Lee has been

<sup>21</sup> Wenhui, 1 April 2022, <https://www.wenweipo.com/a/202204/01/AP624600cbe4b036dce9a40b1d.html> ; Takungpao, 2 April 2022, <https://www.tkww.hk/a/202204/02/AP62479c5de4b06937456ad3f6.html>

<sup>22</sup> Written reply of the Police Commissioner to the Legislative Council, 27 April 2022, <https://www.info.gov.hk/gia/general/202204/27/P2022042700445p.htm>

qualified as foreign agent by the police, under Schedule 5 of the Implementation Rules of Article 43 of the NSL, together with other executive committee members and the Alliance as an organization.<sup>23</sup> On 8 September 2021 Lee was prosecuted of inciting subversion under Articles 22 and 23 of the NSL, namely ‘to organize, plan, commit or participate in subverting state power, that is overthrowing or undermining the basic system of the People’s Republic of China established by the PRC constitution, or overthrowing the body of central power of the PRC.’<sup>24</sup> On 9 September 2021, the police proceeded to freeze the Alliance’s assets and bank account and shut down the 4 June Memorial Museum. The organization’s website has been removed at the request of the police under section 7(2) of schedule 4 of the Implementation Rules. Earlier, on 25 August 2021 Lee was served notice by the National Security Department of the Hong Kong Police to submit information under Article 43 of the National Security Law and Schedule 5 of the Implementation Rules for Article 43 of the NSL.<sup>25</sup> These provisions regulate submission of information for investigation of national security crimes. The police demanded Lee Cheuk Yan to provide full information on all the Alliance’s activities, finances, foreign sources of funding, relations with organizations outside Hong Kong and personal details of all members since the group's founding since its establishment in 1989.

Not only the national security charges further impeded Lee Cheuk Yan in performing his trade union activities but they added to the climate of fear and persecution and elimination of democratic space in Hong Kong, seriously obstructing workers in the exercise of their freedom of association rights.

#### **Prosecution of trade union leaders charged with conspiracy to commit subversion under the NSL for taking part in July 2020 primary elections**

Three trade union leaders – Carol Ng, chair of the HKCTU, Winnie Yu, chair of the Hospital Authority Employees Alliance (HAEA) and Cyrus Lau, Chair of the Nurse Trade Union were arrested among a group of 53 democratic leaders on 6 January 2021 for taking part in the primary election of the democrats in July 2020. They were taking part in the election representing the Labour Party or their respective trade unions. Carol Ng and Winnie Yu remain remanded.

The high court judge rejected Carol Ng’s request for bail on 20 December 2021, citing that the comments, speeches, interviews, articles and electioneering materials Carol Ng had made and written after 1 July 2020 “could have stirred up resentment and anger against the authority”. Her trade union background and connections with international trade unions were allegedly the evidence that “she has an international influence as a result of her trade union work, therefore, it would be very easy for her to connect with her colleagues abroad to further the hostility against the authorities (HCCP 193/2021, 28 April 2022).<sup>26</sup> Carol Ng has already

<sup>23</sup> Section 1(a) of schedule 5 of the Implementation Rules defines a foreign agent as a person who carries on activities in Hong Kong and ‘is directly or indirectly directed, directly or indirectly supervised, directly or indirectly controlled, employed, subsidized or funded by a foreign government or foreign political organization, or accepts monetary or non-monetary rewards from a foreign government or foreign political organization’ section; and carries on all or part of the person’s activities for the benefit of a foreign government or foreign political organisation’.

<sup>24</sup> Th Standard, 9 September, <https://www.thestandard.com.hk/breaking-news/section/4/180103/June-4-vigil-organizer-charged-with-inciting-subversion%C2%A0>

<sup>25</sup> <https://www.gld.gov.hk/egazette/pdf/20202449e/es220202449139.pdf>

<sup>26</sup> Judgement, HKSAR and Ng Man Yee Carol, 28 April 2022, HCCP, [https://legalref.judiciary.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=143817&QS=%2B&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=143817&QS=%2B&TP=JU)

remained for more than a year in prison since her arrest on 28 February 2021. Winnie Yu was released on 28 July 2021 on conditional bail that imposed a curfew, weekly reporting to the police, harsh restrictions on freedom of speech, acts and contacts with anyone with a “link” to a foreign government, as well as prohibition to take part in all kinds of election, including trade union elections. She was however re-arrested on 7 March 2022 for allegedly violating bail terms, probably in relation to the online posts she made criticizing the hospital authority’s handling of the Covid 19 outbreak and expressing solidarity with the frontline healthcare workers in 2022.<sup>27</sup> The magistrate court revoked her bail on 8 March 2022 and her bail request with the high court was refused on 20 April 2022.

As a result, both Carol Ng and Winnie Yu have been effectively forced to resign from their trade union leadership positions. Accordingly, the application of the National Security Law not only affects civil and political rights of individual trade unionists but also leads to trade unions losing their leadership, in contravention of the right to elect trade union leaders in full freedom, protected by Article 3 of ILO Convention No. 87.

### **Criminal charges against the executives of the General Union of Hong Kong Speech Therapists, imposition of stringent bail conditions and imposition of freezing of assets under the NSL**

On 22 July 2021, five executives of the General Union of Hong Kong Speech Therapists (GUHKST) were arrested by the National Security Department of the Hong Kong Police from their homes. Their phones, computers and trade union leaflets were taken away by the police. The union chair and vice person, Li Wenling and Yang Yiyi were prosecuted, remanded and denied bail on the next day with charges of conspiracy to print, publish, distribute, display and/or copy seditious publications under Section 10(1)(c), 159A and 159C of the Crimes Ordinance (Cap 200). The other three leaders were granted bail.<sup>28</sup> The publications referred to three picture story books for children published by the union last year. These stories were based on the pro-democratic protests, the advocates and the labour strike of the healthcare workers in 2019 and 2020. The police alleges the publications of inciting hatred against the government and the judiciary, promoting violence and provoking non-compliance with the laws. A freeze on the bank account and assets of the union authorized under the NSL has been imposed. In the hearing on 30 August, the designated national security judge who has been charged to handle the case applied Article 42 of the NSL to revoke the bail that has been granted to the other three union executives. All five union executives are put under custody pending the next hearing on 24 October.<sup>29</sup> On 14 November, the Court of Final Appeal (CFA) did not grant Sidney Ng, one of union executives, her leave to appeal on the application of the NSL procedure to offences outside of the NSL, holding that the stringent threshold on bail under article 42 of the NSL shall be applicable in general to offences and “acts capable of endangering national security” ([2021] HKCFA 42). The district court also turned down the bail review of the union chair, Lorie Lai on 10 December. On 24 January 2022, the district court decided that the judge of the case would be selected from the pool of judges appointed by

<sup>27</sup> National security: ex-Hospital Authority union chief remanded in custody for violating bail terms, [SCMP](https://hongkongfp.com/2022/03/08/national-security-ex-hospital-authority-union-chief-remanded-in-custody-for-violating-bail-terms/), 10 March 2022 <https://hongkongfp.com/2022/03/08/national-security-ex-hospital-authority-union-chief-remanded-in-custody-for-violating-bail-terms/>

<sup>28</sup> HKFP, 22 July, <https://hongkongfp.com/2021/07/22/national-security-police-arrest-5-hong-kong-trade-union-members-for-conspiracy-to-publish-seditious-material/> ;

<sup>29</sup> HKFP, 30 August, <https://hongkongfp.com/2021/08/30/security-law-hong-kong-court-denies-bail-to-speech-therapists-behind-kids-book-about-sheep-and-wolves/>

the Chief Executive to handle national security law cases. A pre-trial review on the case has been scheduled on 21 April and the trial date on 5 July 2022.

The stringent bail conditions under Article 42 of the NSL applied to the trade unionists and their lengthy pre-trial detention have paralysed the trade union organizations they belonged to. The GUHKST had lost all its elected leaders making it impossible for the members to furnish information in time to the Registrar of Trade Unions or convene a members' assembly to adopt a self-disbandment decision and dispose trade union assets. Accordingly, application of the NSL has actively contributed to elimination of the independent trade union movement in Hong-Kong.

### **Impact of national security laws on labour regulation**

We also observe the negative impact of national security laws on labour regulation. According to reports, the Department of Labour (DoL) is proceeding to add a catch-all offence, "acts endangering national security" under schedule 1 of the [TUO](#), and under schedule 2 of the Social Workers Registration Ordinance (SWRO).<sup>30</sup> The addition would entail, under section 17(3) of the TUO, trade union de-registration or punishment of the convicted person, namely a 5-year ban from taking office in a trade union.<sup>31</sup> A registered social worker, under the amended SWRO to be gazetted within May, will be disentitled to be or continue to be a registered social worker.<sup>32</sup> The Hong Kong Social Workers' General Union fears that the broad scope of the proposed new offence allows for arbitrary interpretation to threaten social workers from assuming their legitimate role of defending social justice, human rights protected under the SWRO. Their normal work to assist clients, criticize government policies, as well as international exchange and receiving foreign fundings etc could fall foul under the amended schedule.<sup>33</sup>

### **FREEDOM OF ASSEMBLY (ARTICLE 21)**

Contrary to the statements made by the Government, we submit that the provisions of the Public Order Ordinance (Cap. 245) and its application in practice is not consistent with Article 21 of ICCPR which protects the right to peaceful protest. Trade unions are increasingly subject to punishment and harassment for organizing and taking part in peaceful demonstrations and protests in Hong Kong.

---

<sup>30</sup> Briefing paper of Secretary of Labour, Lo Chi Kwong with the Panel on Welfare Services of the Legislative Council on 16 May 2022 ([LC Paper No. CB\(2\)298/2022\(05\)](#)),

<sup>31</sup> Miscellaneous interviews of Commissioner of Labour on 28 Dec 2021, [Inmedia](#); 15 December 2021, [The Headline News](#); 24 Jan 2022, [Radio Free Asia](#).

<sup>32</sup> "...we proposed to add "an offence endangering national security". The offences shall include, but are not limited to, the offences of "secession", "subversion", "terrorist activities" and "collusion with a foreign country or with external elements to endanger national security" stipulated in the NSL, and the offences of "treason" and "sedition" in the Crimes Ordinance (Cap. 200). It is not feasible to list all such offences specifically in Schedule 2 because some of them may not be, on the face of their elements, offences endangering national security, but could be regarded as such in a particular case under certain circumstances." Briefing paper of Secretary of Labour, Lo Chi Kwong with the Panel on Welfare Services of the Legislative Council on 16 May 2022 ([LC Paper No. CB\(2\)298/2022\(05\)](#)), <https://www.legco.gov.hk/yr2022/english/panels/ws/papers/ws20220516cb2-298-5-e.pdf>

<sup>33</sup> 7 Sep 2022, [HK01](#)

Trade unions were heavily affected by the police repression after the demanding the withdrawal of the extradition bill and universal suffrage in 2019. Lee Cheuk Yan, the General Secretary of the HKTUC is currently serving 20-month and 2 weeks imprisonment for the charges related to the organization and taking part in these protests, in breach of the Public Order Ordinance (POO). He faces 2 additional prosecutions related to the protest to demand the release of the political prisoners in mainland China government on 1 January 2021. He also faces charges of obstructing a police officer and breaking the Air Navigation (Hong Kong) Order 1995 over the release of a balloon during a 2021 New Year's Day protest.<sup>34</sup>

### **Continuous restrictions on the right to assembly under COVID-19 regulations**

The ban on public gatherings of more than 4 persons established under the Prevention and Control of Disease (Prohibition on Group Gatherings) Regulation (Cap. 599G) as part of anti-COVID19 response has been effectively used to block applications for public demonstrations, including those organized by trade unions. On 1 May 2020 Lee Cheuk Yan and 7 other opposition activists gathered to commemorate the Labour Day and to protest against the use of Cap. 599G as generalized prohibition public gatherings, in breach of the right to peaceful assembly. The protesters were also calling for the creation of an unemployment assistance scheme to offer monthly subsidies to the jobless amid the Covid-19 pandemic. All the participants have been arrested, prosecuted and finally given suspended jail sentences. Lee was given a suspended jail sentence of 18 months and a fine of HK\$5,000 (US\$643). This case marked the first protest-related conviction under the very same decree the participants were protesting.

Cap 599G has been subsequently used to block trade union assemblies, including commemoration of Labour Day a year after, in 2021. The authorities rejected applications submitted by the HKCTU, ignoring the proposed safety measures, such as marching in small groups with social distancing. Between May and August 2021, HKCTU, the HAEA, the GUHKST and other unions had been harassed, cordoned, reported their ID, photographed and videotaped or ticketed by police officers to disrupt them from communicating trade union messages to the public by setting up street booths under the prolonged ban on public gatherings under Cap 599G.

We recall that the right of assembly is essential for the normal exercise of trade union rights, including in the time of crisis and that organization of public meetings and processions, particularly on the occasion of May Day, constitutes an important aspect of trade union rights. We recall that the Cap. 599G was introduced by the Government without any prior tripartite consultation. The ban on public gatherings has been extended multiple times. As shown, penalties for non-observance were excessive. No alternative routes for the exercise of freedom of assembly were provided. Accordingly, the ban has unreasonably limited the exercise of freedom of peaceful assembly protected by Article 21 ICCPR.

The right to peaceful assembly is recognized by Article 21 of the ICCPR, and individuals should not be required to obtain prior permission before exercising this right. Restrictions placed on the exercise of this right must be, “in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.” ITUC urges the Committee to call on the Hong Kong government to revise the Public Order

---

<sup>34</sup> Radio Television Hong Kong, 3 August 2021, <https://news.rthk.hk/rthk/en/component/k2/1603972-20210803.htm> .



Ordinance to ensure that the Ordinance is in accordance with provisions of the Covenant and Hong Kong's Bill of Rights Ordinance.

**Conclusions**

The wide-spread anti-trade union discrimination, combined with application of oppressive laws contravene the rights contained in the ICCPR, such as the right to peaceful assembly and the right of association. International action is therefore needed to urge the government of HKSAR to take effective measures to respect, protect and fulfill its obligations under international human rights law.