

Follow-Up Report on Hong Kong's Implementation of UN Human Rights Committee's Concluding Observations

A. Executive summary

1. On 27 July 2022, the United Nations Human Rights Committee (“Committee”) issued the concluding observations (“CO”) on Hong Kong’s implementation of the International Covenant on Civil and Political Rights (“ICCPR”), which elaborated the Committee’s observations and recommendations in detail.¹
2. Given that more than half a year has passed, Hong Kong Centre for Human Rights (“HKCHR”) believes it is a good time to review the city’s implementation of the Committee’s recommendations. As such, the purpose of this report is to thoroughly record the government’s compliance with and/or defiance of the recommendations on ten selected major topics in the period between 27 July 2022 and 31 March 2023 (“the Reporting Period”). The remaining topics discussed in the CO will not be included in this report in light of our limited resources.
3. The ten selected topics are:
 - (1) National human rights institution
 - (2) National Security Law and sedition law
 - (3) Emergency Regulations Ordinance
 - (4) Police excessive use of force
 - (5) Trafficking in persons
 - (6) Legal aid and fair trial
 - (7) Freedom of the press and freedom of speech
 - (8) Freedom of peaceful assembly
 - (9) Freedom of association
 - (10) Government’s follow-up
4. In summary, HKCHR found that the Hong Kong government refused to implement any recommendation made by the Committee as to the ten selected topics. Instead, with undisguised contempt for the UN human rights mechanism, the government continues its human rights violations and even proactively exacerbates the infringements in some cases. The rule of law, democracy, human rights, and freedoms protected under the ICCPR are being severely eroded.
5. HKCHR urges the Hong Kong government to adopt and implement all of the Committee’s recommendations immediately. The international community should continue to monitor

¹ [CCPR/C/CHN-HKG/CO/4](https://www.unhcr.org/refugees/c/chn-hkg/co/4)

the human rights situation of Hong Kong and call for Hong Kong government's complete compliance with the CO.

B. National Human Rights Institution (CO [6]-[7])²

6. The Committee urges Hong Kong to establish an independent national human rights institution (“NHRI”) with a comprehensive mandate and appropriate powers in full compliance with the Paris Principles. Until such a NHRI is established, the Committee stated that Hong Kong should take concrete measures to strengthen the independence and effectiveness of the existing institutions and to expand their mandates. One must also note that the same recommendation has been made repeatedly in the past by various UN committees. The latest one was made by the Committee on Economic, Social and Cultural Rights (“CESCR”) in its 2023 concluding observations on Hong Kong.³
7. However, in the press release published immediately after the release of the CO, the Hong Kong government firmly rejected the Committee’s recommendation, claiming that the “constitutional framework provides a solid protection of human rights in Hong Kong” and such protection is buttressed by the existing statutory organisations such as the Equal Opportunities Commission and the Ombudsman⁴, despite the fact that neither of these organisations can satisfy the requirements of the Paris Principles.
8. In the Reporting Period, the government has never proposed any plans to establish a NHRI. Neither did it propose new legislation or amendments to existing legislation to strengthen the existing institutions to provide effective protection of human rights.

C. National Security Law And Sedition Law (CO [4]-[5]; [12]-[16])

9. In the CO, the Committee heavily criticised the Beijing-imposed National Security Law (“NSL”) and the British colonial offence of sedition stipulated in the Crimes Ordinance. The Committee made a number of recommendations including the urgent repeal of the NSL and the sedition offence.⁵

² In this report, the number following the topic is referring to the paragraph number of the CO which discussed the relevant topic. For example, “CO [6]-[7]” refers to paragraphs 6 and 7 of the CO.

³ Concluding observations on the third periodic report of China, including Hong Kong, China, and Macao, China, [E/C.12/CHN/CO/3](#), [11]-[12]

⁴ <https://www.info.gov.hk/gia/general/202207/27/P2022072700588.htm>

⁵ The recommendations include asking the government to: (1) ensure that the ICCPR prevails over domestic laws including the NSL, and bring these laws and practices in full conformity with the ICCPR; (2) take concrete steps to repeal the NSL, refrain from applying it in the meantime, and immediately stop applying the NSL to sedition cases; (3) repeal the sedition offence and refrain from using them to suppress the expression of critical and dissenting opinions; (4) review pending sedition cases to ensure no one is prosecuted or targeted for the legitimate exercise of the right to freedom of expression; and (5) ensure that the legislative process for enacting a new national security law is inclusive and transparent and facilitates the free, open and meaningful participation of civil society; and that the new legislation fully conforms with the ICCPR.

Government keeps using the law to stifle free expression

10. However, the Hong Kong government, again, firmly rejected all of the above comments made by the Committee.⁶ In the Reporting Period, not only did the government refuse to repeal or stop applying the NSL and the sedition offence, it also persisted with all existing court cases regarding the NSL and sedition. **HKCHR observed that at least 22 people were arrested under the NSL or the sedition law in the Reporting Period, while at least 10 of them were prosecuted.** Details of the arrests are as follows:

Date of arrest	Number of arrestees	Names of the arrestees	Arrested for	Current status	Case number
2022/8/1	1	陸挺峯 (Luke Ting Fung)	Sedition offence – publishing seditious speeches on an online forum	Charged and convicted. Sentenced to 6-month jail	WKCC 2700/2022
2022/8/9	2	Unknown	Sedition offence – publishing seditious speeches on Facebook “Civil Servants Secrets” page	Not charged	N/A
2022/9/19	1	Mr. Pang	Sedition offence – playing the song “Glory to Hong Kong” outside the British Consulate General Hong Kong	Not charged	N/A
2022/9/27	2	蔡振諾 (Choi Chun Lok) 徐凱駿 (Chui Hoi Chun)	Sedition offence – publishing seditious speeches on online forums; Desecrating the national flag or national anthem	Charged and convicted. Choi was sentenced to 8-month jail; Chui was sent to a training centre	WKCC 3505/2022 WKCC 3506/2022
2022/10/24	1	Mr. Shek	Sedition offence – putting up seditious posters outside the legislature	Not charged	N/A
2022/11/1	1	黃熾聰 (John Joseph)	Sedition offence – managing a social media account advocating HK Independence	Charged with conspiring to incite others to commit secession under the NSL. Bail denied	WKCC 4070/2022
2022/11/21	1	王俊傑 (Wong Chun Kit)	Sedition offence – publishing seditious speeches online	Charged and convicted. Sentenced to 8-month jail	WKCC 4360/2022
2023/1/1	1	Ms. Tsang	Sedition offence – commemorating a deceased man	Not charged	N/A
2023/1/5	1	王浩鏘 (Wong Ho Cheung)	Sedition offence – publishing seditious speeches online	Charged and convicted. Sentenced to 5-month jail	WKCC 93/2023
2023/1/17	6	姜嘉偉 (Keung Ka Wai) 李龍現 (Lee Lung Yin) 陳尚恩 (Chan Shang Yee) 3 other unknown persons	Sedition offence – publishing and selling seditious publications	3 of them were charged, convicted and sentenced to 8-month, 5-month and 10-month jail	WKCC 313/2023
2023/3/9/	1	鄧燕娥 (Elizabeth Tang)	NSL offence – suspected collusion with a foreign country or with external elements to endanger national security	Not charged	N/A
2023/3/8	1	Ms. Yuen	NSL offence – incitement to commit secession	Not charged	N/A
2023/3/13	2	Unknown	Sedition offence – possessing seditious publications	Not charged	N/A
2023/3/28	1	羅愛華 (Law Oi Wah)	Sedition offence – publishing seditious speeches online	Charged. Bail denied	WKCC 1338/2023

11. The worrying trend is that the relevant laws have been used to suppress behaviours or speeches of a more trivial and mild nature, showing that the government is determined to

⁶ <https://www.info.gov.hk/gia/general/202207/27/P2022072700588.htm>

use these laws as a tool to further stifle the freedom of expression and silence unwanted political expression. Examples include:

- (1) In August 2022, national security police arrested two men on suspicion of “doing an act or acts with seditious intention” over their role as administrators of a Facebook page “Civil Servants Secrets”. The police vaguely stated that the arrestees were suspected of publishing posts on that page to “disseminate seditious messages that promote feelings of ill-will and enmity between different classes of the population”. While the particulars of the seditious messages were not disclosed, it is believed that the arrest is related to one post on the page showing a video of a police officer putting his firearms away and taking a nap while on duty.⁷ Commenting on the arrests, Leung Chau-ting, the chairman of the Federation of Civil Service Unions, said that he was shocked because the page was only a source of entertainment among colleagues for rants and chatter, “[t]he government is sending a sign of deterrence to civil servants”. He wondered what level of expression of opinions and complaints was acceptable as there was no clear definition of the “red line”.⁸ The page was later closed down, followed by the disappearance of at least eight similar Facebook pages.⁹ The arrestees have not yet been prosecuted to date.
- (2) In October 2022, a pastor and an elderly woman were found guilty of “uttering seditious words” merely because they, while sitting in the public gallery of the court, applauded and expressed critical comments against a magistrate, such as criticising that the magistrate had lost her conscience. It shall be noted that this incident was mentioned as an example in the CO with the Committee’s remark that people were “arrested and charged with seditious offences for having legitimately exercised their right to freedom of speech”¹⁰. Despite the Committee’s concern, the government insisted to proceed with the prosecution. The court finally held that by openly demeaning and criticising judicial officers, the defendants did knowingly and intentionally make remarks that were seditious, bringing hatred and contempt against the administration of justice.¹¹ The pastor was also convicted of committing “acts with seditious intention” for operating a YouTube channel that commented on

⁷ “Hong Kong national security police arrest 2 gov’t workers over alleged ‘seditious’ social media posts”, *Hong Kong Free Press*, 10 August 2022, <https://hongkongfp.com/2022/08/10/national-security-police-arrest-2-govt-workers-over-alleged-seditious-social-media-posts/>

⁸ “No more ‘secrets’ in Hong Kong? Facebook pages for anonymous rants, comments shut following national security law arrests”, *South China Morning Post*, 14 Aug 2022, <https://www.scmp.com/news/hong-kong/politics/article/3188821/no-more-secrets-hong-kong-facebook-pages-anonymous-rants>

⁹ *ibid*

¹⁰ [15]

¹¹ 香港特別行政區訴彭滿圓 [2022] HKMagC 9, WKCC 928/2022, [128]-[132], https://legalref.judiciary.hk/doc/judg/pdf/vetted/other/ch/2022/WKCC000928_2022.pdf

protest-related cases. He was sentenced to one-year imprisonment while the elderly woman was given a three-month sentence.¹²

- (3) In November 2022, a Hong Kong man was arrested for allegedly committing an act with a seditious intent while paying tribute to Queen Elizabeth II outside the British Consulate General Hong Kong. It was reported that he was peacefully playing the song “Glory to Hong Kong”, a song supporting the 2019 anti-extradition protests, on a harmonica before he was arrested.¹³ The song is banned in schools, although the government has refused to say if the singing or playing it is illegal.¹⁴ He has not yet been prosecuted to date.
- (4) In November 2022, national security police arrested a man on suspicion of sedition over social media posts, including one in which he thanked South Korea for “recognising Hong Kong’s national anthem” after the song “Glory to Hong Kong” was mistakenly played, instead of the Chinese national anthem, at a rugby match in South Korea.¹⁵ He was charged, convicted and sentenced to 8-month jail.¹⁶
- (5) In January 2023, six people were arrested by national security police for allegedly producing, publishing and selling of a “seditious” book on the 2019 protests and unrest. The police criticised the book as advocating Hong Kong independence, glorifying violence and opposing the government.¹⁷ Three of them were charged, convicted and sentenced to 8-month, 5-month and 10-month jail.¹⁸

¹² “Two Hong Kong court spectators jailed for sedition over critical comments about magistrate in protest case”, *Hong Kong Free Press*, 27 Oct 2022, <https://hongkongfp.com/2022/10/27/two-hong-kong-court-spectators-jailed-for-sedition-over-critical-comments-about-magistrate-in-protest-case/>

¹³ “Hong Kong police arrest man for playing protest song near British consulate as mourners pay respects to Queen Elizabeth”, *South China Morning Post*, 20 Sep 2022, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3193197/hong-kong-police-arrest-man-playing-protest-song-near>

¹⁴ “Hong Kong man arrested under British colonial-era sedition law while mourning Queen outside consulate”, *Hong Kong Free Press*, 21 Sep 2022, <https://hongkongfp.com/2022/09/21/hong-kong-man-arrested-under-british-colonial-era-sedition-law-while-mourning-queen-outside-consulate/>

¹⁵ “Hong Kong man arrested for sedition after allegedly posting clip of anthem blunder with message of thanks”, *Hong Kong Free Press*, 22 Nov 2022, <https://hongkongfp.com/2022/11/22/hong-kong-man-arrested-for-sedition-after-allegedly-posting-clip-of-anthem-blunder-with-message-of-thanks/>

“Hong Kong police arrest man on suspicion of sedition after he thanks South Korean authorities for anthem blunder”, *South China Morning Post*, 21 Nov 2022, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3200461/hong-kong-police-arrest-man-suspicion-sedition-thanking-south-korean-authorities-anthem-mix>

¹⁶ 香港特別行政區訴王俊傑 [2023] HKMagC 1, WKCC 4360/2022, https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=149774&QS=%2B%7C%28WKCC%2C4360%2F2022%29&TP=RS

¹⁷ “6 arrested by national security police over ‘seditious book’ sold at Hong Kong Lunar New Year fair”, *Hong Kong Free Press*, 19 Jan 2023, <https://hongkongfp.com/2023/01/18/6-arrested-by-national-security-police-over-seditious-books-sold-at-hong-kong-lunar-new-year-fair/>

¹⁸ 香港特別行政區訴李龍現 [2023] HKMagC 5, WKCC 313/2023, https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=151452&QS=%2B%7C%28WKCC%2C313%2F2023%29&TP=RS

(6) In January 2023, a woman was arrested under the sedition law for commemorating an attacker who stabbed a policeman and then committed suicide. The police claimed that the arrestee, apart from laying flowers and white candles on the floor, had displayed a seditious picture, but officers never disclosed what the content of the picture was.¹⁹ She has not yet been charged to date.

(7) In March 2023, two men were arrested by national security police under the sedition law for merely possessing “seditious” publications which were allegedly capable of “inciting hatred or contempt against the Central government, the Hong Kong government and Hong Kong judiciary”. The publications in question were children’s books about sheep and wolves that were found to be seditious by the District Court last year. In that case, five speech therapists were found guilty of conspiring to publish, distribute and display three books with seditious intent, and sentenced to 19 months in jail each.²⁰ The arrestees have not yet been charged to date.

No consultation was ever conducted

12. The Hong Kong government had claimed that the Chinese government enacted the NSL “based on extensive consultation of public opinions from all sectors of [Hong Kong]”.²¹ In fact, no public consultation has ever been conducted before the enactment of the law. The public cannot even know the content of the bill when it was being drafted and discussed by the Chinese officials. Also, the full text of the law was not released to the public until the day it came into force.

Courts have not protected human rights firmly

13. It is regrettable to see that Hong Kong courts have been continuing to endorse the constitutionality of the relevant laws. Apart from the ruling of the Court of Final Appeal (“CFA”), the apex court of the city, that the legality and constitutionality of the NSL cannot be challenged by Hong Kong courts, the District Court also affirmed that the sedition law under the Crimes Ordinance was constitutional in September 2022 in a high-profile trial regarding some children’s books.²² In summary, from the date of CO to the time of writing, we have observed a high degree of courts’ deference to the government’s interpretation of

¹⁹ “Woman arrested for alleged sedition”, *RTHK*, 2 Jan 2023, <https://news.rthk.hk/rthk/en/component/k2/1682237-20230102.htm>

“七一刺警 | 22 歲內地女悼念疑兇 涉煽動罪被捕”, *i-Cable*, 2 Jan 2023, <https://www.i-cable.com/%E6%96%B0%E8%81%9E%E8%B3%87%E8%A8%8A/81716/%E4%B8%83%E4%B8%80%E5%88%BA%E8%AD%A6-22%E6%AD%B2%E5%85%A7%E5%9C%B0%E5%A5%B3%E6%82%BC%E5%BF%B5%E7%96%91%E5%85%87-%E6%B6%89%E7%85%BD%E5%8B%95%E7%BD%AA%E8%A2%AB%E6%8D%95/>

²⁰ “Hong Kong national security police arrest 2 men over allegedly possessing seditious publications”, *Hong Kong Free Press*, 14 Mar 2023, <https://hongkongfp.com/2023/03/14/hong-kong-national-security-police-arrest-2-men-over-allegedly-possessing-seditious-publications/>

²¹ <https://www.info.gov.hk/gia/general/202207/27/P2022072700588.htm>

²² *HKSAR v Lai Man Ling* [2022] HKDC 981, [88]-[110]

the laws related to national security. **Although Article 4 of the NSL expressly states that human rights under the ICCPR and ICESCR shall be protected, it was observed that the courts rarely relied on and accord sufficient weight to this provision.**

D. Emergency Regulations Ordinance (CO [17]-[18]; [47]-[48])

14. The Emergency Regulations Ordinance (“ERO”) was a colonial law enacted in 1922 which confers legislative power on the Executive to make regulations whatsoever on any occasion which the Executive deemed to be an occasion of emergency or public danger.²³ Regulations made under the ERO included the criminalisation of trade unions as unlawful societies in 1920s. The ERO had not been invoked since the 1970s, until it was used by the government in October 2019 to enact the anti-mask law – the Prohibition on Face Covering Regulation (“PFCR”).
15. The Committee was concerned about: (1) the unfettered power of the Chief Executive to make regulations; (2) the absence of definitions of “emergency” and “public danger”; and (3) the lack of adequate judicial review of the regulations. Accordingly, the Committee recommended a revision of the ERO. As to the PFCR, the Committee urged the government to repeal the entire regulation.
16. However, the government rejected these recommendations, claiming that the powers under the ERO was in compliance with the ICCPR, the PFCR was scrutinised by the Legislative Council, and the constitutionality of it was upheld by the CFA.²⁴ In the Reporting Period, the government did not revise the ERO. The PFCR, a law prohibiting people from wearing a mask in any lawful and unlawful protests and gatherings, remains to be in force to date. People must therefore take off their masks even though wearing a mask is still a common practice to prevent COVID-19 in Hong Kong. When asked about the necessity to keep the PFCR, the government claimed that while law and order had generally returned to a stable state, national security risks still existed and should not be taken lightly.²⁵
17. HKCHR believes that the government’s view is unsubstantiated and unacceptable because:
 - (1) Given that there has not been any large-scale or violent protests since 2021, the “public danger” on which the invocation of the ERO was based no longer exists. The government has no valid justification to keep the PFCR in force when there is no “public danger” anymore. Maintaining such regulation is an excessive restriction measure and a blatant violation of the freedom of assembly.
 - (2) Even if there are still risks of public danger (and national security), HKCHR is of the view that the blanket ban imposed by the PFCR is not necessary, which is a

²³ Section 2 of the ERO

²⁴ <https://www.info.gov.hk/gia/general/202207/27/P2022072700588.htm>

²⁵ “鄧炳強：香港仍有國安風險 需要保留蒙面法”，*Now News*, 22 Mar 2023, <https://news.now.com/home/local/player?newsId=511541>

view shared by the High Court of Hong Kong. The Court has given a very detailed judgment and held that PFCR's indiscriminate restrictions on human rights went further than was reasonably necessary for the furtherance of the legitimate aims.²⁶ Unfortunately, this decision was later overruled by the Court of Final Appeal.

- (3) Contrary to the government's claim, the PFCR was never effectively scrutinised by the Legislative Council. The PFCR came into effect before it was reviewed by the legislature. Although it was tabled at the Legislative Council pursuant to the negative vetting procedure (meaning that lawmakers can amend or oppose the regulation within 28 days after it was made by the Chief Executive), the fact is that the Legislative Council did not manage to vet the regulation within the 28-day period because there were other agenda items before the regulation.²⁷ Therefore, the PFCR remains to be the sole decision of the Chief Executive.

E. Police Excessive Use Of Force And Police Complaint Mechanism (CO [19]-[22])

18. The Committee has made a number of recommendations as to the police use of force. However, in the Reporting Period, none of them has been adopted or implemented by the Hong Kong government.
19. First of all, the government ignored the Committee's opinion to establish a commission of inquiry to thoroughly investigate the police use of force in the anti-extradition protests in 2019 and 2020.
20. Secondly, the government also failed to adopt the Committee's recommendation to establish a fully independent mechanism to conduct a proper investigation into complaints of police misconduct or abuse of power. In the regard, one must note that the Court of First Instance has already held that the existing mechanism of the police watchdog, the Independent Police Complaints Council ("IPCC"), was inconsistent with the ICCPR due to its lack of independence and investigative powers.²⁸ But the government insists to maintain such mechanism without any reforms or any intention to create a new independent watchdog thus far.
21. Thirdly, contrary to the Committee's recommendation, the government fails to ensure that all complaints regarding excessive use of force are investigated promptly, thoroughly and impartially. Instead, the findings of many investigations continue to be obviously unfair and absurd, and some of them are endorsed by the IPCC.

- (1) In November 2019, a reporter was shot by a riot police officer with a sponge grenade while he was reporting the protest. There are video footages supporting the report's

²⁶ *Kwok Wing Hang v Chief Executive in Council (No 2)* [2020] 1 HKLRD 1, [126] – [168]

²⁷ “政情：拉布潮影響 禁蒙面法延展無望”，*Oriental Daily*, 15 Nov 2019,

https://orientaldaily.on.cc/cnt/news/20191115/00176_077.html

²⁸ *Chan Ki Kau v Hong Kong Police Force* [2020] 5 HKLRD 653, [46], [101]-[103], [124]

complaint and proving the officer's identity²⁹, and the then Commissioner of Police Tang Ping-keung also told the press that the police had already reprimanded the involved officer. However, after nearly two years, the police concluded that there was insufficient evidence to support the allegation, and therefore dismissed his complaint. In January 2023, around five more months later, the IPCC decided to uphold the police's conclusion.³⁰ Tang later explained that a reprimand did not necessarily mean that the officer was at fault.³¹

- (2) In June 2022, a couple was filmed having sexual intercourse at the window of a unit in a private housing estate. Both of them were then arrested and charged for outraging public decency. It was later reported that a large number of police officers, including senior officers, logged into the internal system without authorisation to check on the face of the arrested woman, and even took pictures and circulated them on WhatsApp. Although the officers' acts are prima facie a dishonest use of computers, which is a criminal offence in Hong Kong, the media reported in November 2022 that the police decided not to conduct a serious and thorough investigation due to the large number of personnel involved.³² Without denying the media reports, the police only told the press that the relevant offenders had received "appropriate disciplinary action", but refused to provide the details of the action.³³
- (3) In 2021, a police officer was charged with "causing grievous bodily harm by dangerous driving" after he knocked down a female passer-by with a police vehicle while on duty. In November 2022, the police told the press that the involved officer was not suspended from work after the incident.³⁴

22. Fourthly, no significant changes on the use of force manual and guidelines have been made. Instead, more and more powerful weapons were bought to suppress future protests, including a new armoured vehicle named "Saber-toothed Tiger" which is equipped with a multi-hole launcher using different types of ammunition.³⁵

²⁹ <https://youtu.be/tIH7jPjOvis>

https://youtu.be/S67r6Sqa_BA

³⁰ "Hong Kong police watchdog dismisses complaint filed by reporter hit by projectile during 2019 protest", *Hong Kong Free Press*, 31 Jan 2023, <https://hongkongfp.com/2023/01/31/hong-kong-police-watchdog-dismisses-complaint-filed-by-protester-hit-by-projectile-during-2019-protest/>

³¹ "商台記者決定覆核投訴調查結果 鄧炳強：曾訓斥涉事警員非代表他必定有錯", *Now News*, 19 Sep 2022, <https://news.now.com/home/local/player?newsId=490769>

³² "啟德屋苑活春宮 大批警員登入內部系統查看涉案女子容貌", *on.cc*, 20 Nov 2022,

https://hk.on.cc/hk/bkn/cnt/news/20221120/bkn-20221120050014740-1120_00822_001.html

³³ *ibid*

³⁴ "警長涉駕警車撞途人致嚴重受傷 供稱正追截涉販毒的士 控方質疑不符警隊指引", *The Witness*, 18 Nov 2022,

<https://thewitnesshk.com/%E8%AD%A6%E9%95%B7%E6%B6%89%E9%A7%95%E8%AD%A6%E8%BB%8A%E6%92%9E%E9%80%94%E4%BA%BA%E8%87%B4%E5%9A%B4%E9%87%8D%E5%8F%97%E5%82%B7%E3%80%80%E4%BE%9B%E7%A8%B1%E6%AD%A3%E8%BF%BD%E6%88%AA%E6%B6%89%E8%B2%A9/>

³⁵ "警購國產新裝甲車「劍齒虎」 可發射不同彈藥 下月投入服務", *Ming Pao*, 25 May 2022, <https://news.mingpao.com/ins/%e6%b8%af%e8%81%9e/article/20220525/s00001/1653464225957>

F. Trafficking In Persons (CO [29]-[30])

23. In gist, the Committee had once again recommended the Hong Kong government to: (1) review its legal provisions on combating trafficking in persons (“TIP”) and consider adopting a comprehensive anti-trafficking law; (2) improve the quality of victim screening and identification; (3) ensure that cases of trafficking are thoroughly investigated; and (4) take steps towards joining the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
24. Nevertheless, the government again rejected all the above recommendations, insisting that the current legislative framework has provided a comprehensive package of safeguards, and that TIP has never been a “prevalent problem” in Hong Kong.³⁶
25. However, the government’s claim does not reflect the fact that in 2022, hundreds of people, including Hongkongers, Taiwanese and Malaysians, had been duped into working for Cambodia-based fraud rings through false promises of high-paying jobs or romance. They were held against their will in countries such as Cambodia, Thailand, Myanmar and Laos, and put into forced labour. Some were reportedly tortured, sexually assaulted and threatened with organ harvesting. It was reported that at least 38 victims are from Hong Kong.³⁷
26. The Hong Kong police has arrested at least ten people alleged to be a syndicate luring Hong Kong residents to Southeast Asia for forced labour on the charge of conspiracy to defraud.³⁸ Only three of them have been prosecuted so far.³⁹ According to reports, they are provisionally charged with conspiracy to defraud, and are accused of duping a victim by falsely claiming the victim would receive 1,000,000 baht (US\$27,878) in Thailand, and later imprisoning him in Myanmar; and also swindling the victim’s sister out of HK\$35,530 (US\$4,555).⁴⁰

³⁶ <https://www.info.gov.hk/gia/general/202207/27/P2022072700588.htm>

³⁷ “At least 38 Hong Kong victims in growing human-trafficking trend, with seventh suspect arrested over job scams luring people to Southeast Asia”, *South China Morning Post*, 23 Aug 2022, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3189841/least-38-hong-kong-victims-growing-human-trafficking>

³⁸ “香港治安 | 過去 5 年詐騙案增 1.3 倍至 1.9 萬宗 保安局正助 3 「賣豬仔」受害人返港”, *Sky Post*, 26 Oct 2022, <https://skypost.ulifestyle.com.hk/article/3384144/%E9%A6%99%E6%B8%AF%E6%B2%BB%E5%AE%89%EF%BD%9C%E9%81%8E%E5%8E%BB%E5%B9%B4%E8%A9%90%E9%A8%99%E6%A1%88%E5%A2%9E1.3%E5%80%8D%E8%87%B31.9%E8%90%AC%E5%AE%97%E3%80%80%E4%BF%9D%E5%AE%89%E5%B1%80%E6%AD%A3%E5%8A%A93%E3%80%8C%E8%B3%A3%E8%B1%AC%E4%BB%94%E3%80%8D%E5%8F%97%E5%AE%B3%E4%BA%BA%E8%BF%94%E6%B8%AF>

³⁹ *ibid*

⁴⁰ “「賣豬仔」案再起訴兩人 累計三人被控串謀欺詐 還押 10.17 訊”, *The Witness*, 23 Aug 2022, <https://thewitnesshk.com/%E8%B3%A3%E8%B1%AC%E4%BB%94%E6%A1%88%E5%86%8D%E8%B5%B7%E8%A8%B4%E5%85%A9%E4%BA%BA-%E7%B4%AF%E8%A8%88%E4%B8%89%E4%BA%BA%E8%A2%AB%E6%8E%A7%E4%B8%B2%E8%AC%80%E6%AC%BA%E8%A9%90-%E9%82%84%E6%8A%BC%E5%86%8D/>

27. The offence of conspiracy to defraud, which carries a maximum sentence of 14 years, only covers some aspects of the actual crime of human trafficking. It is also questionable as to why only three of the ten people arrested have been prosecuted after more than 7 months of the arrests. The only specific offence on human trafficking in Hong Kong is section 129 of the Crimes Ordinance, which applies only to trafficking a person for the purpose of prostitution. It does not apply to the incidents in 2022.
28. Besides, development in 2022 shows that with the economic downturn, Hong Kong people have become more susceptible to falling victim of human trafficking with the false promises of high-paying jobs. The Hong Kong government's claim in public statements that "trafficking in persons is never a prevalent problem" is failing its obligations under the ICCPR.

G. Legal Aid And Fair Trial (CO [33]-[38])

29. The Committee has made a number of recommendations in the CO regarding legal aid and judicial independence. However, these recommendations have not been implemented in the Reporting Period.

Legal aid

30. The Committee recommended the Hong Kong government to: (1) establish an independent legal aid authority; and (2) guarantee the rights to timely and competent legal aid and to counsel of choice.
31. No such independent authority has been established thus far. The government also asserted that the right to choose lawyers is not absolute, and a fair trial does not necessarily mean that a party must be legally represented by a lawyer of his own choice. Nevertheless, one should note that, under the current legal aid mechanism, the Legal Aid Department ("LAD") will select and assign lawyers to defendants in criminal cases directly without any duty of consultation. Such practice could create a fear, especially for people charged or feared to be charged with national security offences, that they will be assigned a lawyer who has strong ties to the Hong Kong or Chinese government and fails to act impartially. It was reported that some defendants have already decided not to seek legal aid despite the fact that they are financially unable to hire lawyers by themselves.⁴¹

"8 Hongkongers missing in Myanmar as city sets up taskforce to investigate alleged Southeast Asia job scam", *Hong Kong Free Press*, 18 Aug 2022, <https://hongkongfp.com/2022/08/18/8-hongkongers-missing-in-myanmar-as-city-sets-up-taskforce-to-investigate-southeast-asia-job-scam-trafficking/>

⁴¹ "法援改制 撤官派律師疑慮", *Ubeat Magazine*, 28 Dec 2021, https://ubeat.com.cuhk.edu.hk/157_legal-aid/

Judicial independence, fair trial and protection of lawyers

32. The Committee recommended the government to: (1) take all measures necessary to strengthen the independence of the judiciary; (2) respect and protect the right to a fair trial without discrimination based on political opinion; (3) protect lawyers from harassment, intimidation and attacks.
33. In the Reporting Period, it is observed that the government failed to implement the above recommendations. Firstly, the frequent use of the NSL has significantly eroded the judicial independence. Also, defendants charged with national security offences cannot have a fair trial free from political discriminations. Some of the key reasons are as follows:
- (1) Article 44 of the NSL provides that national security cases can only be handled by “designated judges” who are directly appointed by the Chief Executive without the need to provide any justifications. No mandatory consultation is required. The Chief Executive is also empowered to remove a judge from the designation list if the judge “makes any statement or behaves in any manner endangering national security”. In other words, the Chief Executive effectively has the absolute power to exclude any judges whom he thinks is politically disloyal or insufficiently sympathetic to the government’s views. While cases heard before the CFA will usually be handled by five judges in which one of them is usually an overseas judge from other common law jurisdictions, to date no overseas judges have been assigned to deal with national security cases.
 - (2) Although jury trial is originally mandatory in the High Court for criminal cases, Article 46 of the NSL allows national security cases to be tried in the High Court without a jury, as long as the Secretary for Justice (“SJ”) so requires in the name of protecting state secrets, preventing external interference or to avoiding risks of the jurors. This provision does not specifically require the SJ to provide reasons. So far, all NSL cases tried by the High Court are tried without a jury.
 - (3) As provided in Article 47, when the courts have questions as to whether an act involves national security or whether specific evidence involves state secrets, judges should seek a certificate from the Chief Executive as a binding and conclusive document. In other words, the executive branch has the absolute power to decide what is and is not national security and state secrets. In December 2022, the Standing Committee of the National People’s Congress (“NPCSC”), one of the top Chinese government branches, issued a binding interpretation of the NSL which re-emphasized such power of the Chief Executive and stated that whether an overseas lawyer can participate in a NSL case is also a matter to be decided by the Chief Executive by way of issuing a certificate.⁴²

⁴² “CE welcomes NSL interpretation”, *news.gov.hk*, 30 Dec 2022, https://www.news.gov.hk/eng/2022/12/20221230/20221230_201149_534.html

- (4) Article 55 of the NSL also undercuts the independence of the judiciary: it allows the NSL-created Office for Safeguarding National Security, composed of Chinese officials only, to take over certain cases that normally are in Hong Kong’s jurisdiction. Once the Office asserts control over a case, it works with the Supreme People’s Court in Beijing to transfer the case to mainland China.

34. Secondly, the government failed to protect lawyers from harassment, intimidation and attacks.

- (1) In October 2022, although the NSL never prohibited overseas lawyers from participating in a national security case, the government still objected the pro-democracy media tycoon Jimmy Lai’s application for hiring a UK barrister to be his representative.⁴³ In November 2022, the CFA affirmed the court’s decision for allowing overseas counsel to take part in the trial, but the Chief Executive John Lee refused to comply with the court decision and announced that he would invite Beijing to interpret the NSL on this regard.⁴⁴ In addition, the Immigration Department withheld the extension of work visa of Jimmy Lai’s foreign lawyer, which made him impossible to work on the case⁴⁵. In December 2022, the Beijing’s interpretation stated that the court is required to obtain certification from the Chief Executive on the matter of whether an overseas lawyer may act as the defence counsel in a case concerning national security offence.⁴⁶
- (2) Based of the Beijing’s interpretation of the NSL, the Hong Kong government is currently amending the law to vet overseas counsels in national security cases, including giving the government power to deny visas of the foreign lawyers already granted admission.⁴⁷
- (3) The issue of overseas counsel’s participation in the city’s national security cases arose after media tycoon Jimmy Lai sought to hire UK King’s Counsel Timothy Owen to represent him in his national security trial, which has been adjourned until September 2023.

⁴³ “黎智英案獲准用英御狀抗辯 高院：議題複雜 信會提供重要協助”, *Ming Pao*, 20 Oct 2022,

<https://news.mingpao.com/pns/%E6%B8%AF%E8%81%9E/article/20221020/s00002/1666199748848>

⁴⁴ “Hong Kong asks Beijing to intervene after top court blocks bid to stop media tycoon Jimmy Lai from hiring UK lawyer”, *Hong Kong Free Press*, 28 Nov 2022, <https://hongkongfp.com/2022/11/28/breaking-hong-kong-asks-beijing-to-intervene-after-top-court-blocks-bid-to-stop-media-tycoon-jimmy-lai-from-hiring-uk-lawyer/>

⁴⁵ “Hong Kong withholds British lawyer’s visa, delaying Jimmy Lai trial”, *The Guardian*, 1 Dec 2022, <https://www.theguardian.com/world/2022/dec/01/hong-kong-jimmy-lai-british-lawyers-visa-withheld-trial-delay-timothy-owen>

⁴⁶ “CE welcomes NSL interpretation”, *news.gov.hk*, 30 Dec 2022, https://www.news.gov.hk/eng/2022/12/20221230/20221230_201149_534.html

⁴⁷ “Hong Kong has ways of dealing with already admitted foreign lawyers, such as denying their visas, lawmakers told”, *Hong Kong Free Press*, 31 Mar 2023, <https://hongkongfp.com/2023/03/31/hong-kong-has-ways-of-dealing-with-already-admitted-foreign-lawyers-such-as-denying-their-visas-lawmakers-told/>

(4) In March 2023, Albert Ho, a solicitor and ex-lawmaker, was arrested again by national security police while on bail for allegedly interfering with witnesses. The 71-year-old, who has been charged under the NSL for allegedly inciting subversion, was granted bail in August 2022. He is now remanded in custody after a magistrate ruled that he had violated his bail conditions.⁴⁸

(5) Ho's brother, solicitor Frederick Ho, was also arrested in March 2023 after he was accused of removing evidence from the home of his client who was arrested under the NSL.⁴⁹

H. Freedom of the press & freedom of speech (CO [41]-[42])

35. The Committee urged the government to stop applying the NSL and sedition law against journalists, politicians, academics, human rights defenders, students and members of the public who are duly exercising their right to freedom of expression. It also required the government to ensure the editorial independence of all media outlets.

36. In the Reporting Period, these recommendations have not been implemented by the government. Instead, the infringement of the freedom of speech and of the press becomes more and more serious.

37. The Hong Kong Journalists Association (“HKJA”) is the city’s biggest media union which has been heavily attacked and intimidated by Chinese state media and pro-Beijing politicians. In 2022, the association decided to stop its 29-year tradition of publishing an annual report of the free speech situation of Hong Kong, and removing all the previous reports from its website. Ronson Chan, the chairman of the HKJA, admitted that the decision was made in view of the political pressure.⁵⁰

⁴⁸ “國安拘何俊仁 涉干擾趙家賢家屬 初選案趙轉任控方證人 消息：家屬疑探監時「傳話」”, *Ming Pao*, 22 Mar 2023, <https://news.mingpao.com/pns/%E6%B8%AF%E8%81%9E/article/20230322/s00002/1679423293790/%E5%9C%8B%E5%AE%89%E6%8B%98%E4%BD%95%E4%BF%8A%E4%BB%81-%E6%B6%89%E5%B9%B2%E6%93%BE%E8%B6%99%E5%AE%B6%E8%B3%A2%E5%AE%B6%E5%B1%AC-%E5%88%9D%E9%81%B8%E6%A1%88%E8%B6%99%E8%BD%89%E4%BB%BB%E6%8E%A7%E6%96%B9%E8%AD%89%E4%BA%BA-%E6%B6%88%E6%81%AF-%E5%AE%B6%E5%B1%AC%E7%96%91%E6%8E%A2%E7%9B%A3%E6%99%82%E3%80%8C%E5%82%B3%E8%A9%B1%E3%80%8D>

“Hong Kong democrat charged under national security law remanded after violating bail condition”, *Hong Kong Free Press*, 22 Mar 2022, <https://hongkongfp.com/2023/03/22/hong-kong-democrat-charged-under-national-security-law-remanded-after-violating-bail-condition/>

“Hong Kong ex-lawmaker Albert Ho arrested by national security police while on bail”, *Hong Kong Free Press*, 21 Mar 2023, <https://hongkongfp.com/2023/03/21/hong-kong-ex-lawmaker-albert-ho-arrested-by-national-security-police-while-on-bail-reports/>

⁴⁹ “2 arrested after allegedly removing evidence from home of Hong Kong activist accused under security law”, *Hong Kong Free Press*, 12 Mar 2023, <https://hongkongfp.com/2023/03/13/2-arrested-after-allegedly-removing-evidence-from-home-of-hong-kong-activist-accused-under-security-law/>

⁵⁰ “香港「言論自由年報」改由海外發表 《國安法》下小型獨立媒體舉步維艱”, *Radio Free Asia*, 17 October 2022, <https://www.rfa.org/cantonese/news/htm/hk-report-10172022071925.html>

38. Various visual artists have been facing immense political pressure with the fear of crossing the red line because of their artworks.

- (1) Wong Kei-kwan, better known as Zunzi, a prominent political cartoonist in Hong Kong, came under criticism by the government's officials for his newspaper cartoons, most of which are satires on Hong Kong politics. In October 2022, the police sent a letter to Ming Pao to complain about his cartoon which - in response to an incident that 14 students were suspended because they failed to turn up for a national flag-raising ceremony - depicted riot police arriving at a school, with a teacher telling the police that some students said foul language, a student lost his eraser and another student had a conflict with a teacher. The police believed the cartoon would mislead readers into thinking that the police were called on to handle the incident. The cartoon, however, according to Zunzi, aimed to remind teachers to be patient when dealing with students' improper behaviour.⁵¹
- (2) Also in October 2022, Zunzi was criticised by the Secretary for Labour and Welfare for his cartoon containing the word "strict governance (苛政)".⁵²
- (3) In January 2023, the Chief Secretary for Administration Eric Chan, the city's No. 2 official, criticised Zunzi over his another work, a cartoon depicting two men discussing the Beijing's interpretation of the NSL, which empowered the Chief Executive to make decisions on several important matters as to national security. In the cartoon, one man said the Chief Executive "can do what he wants to do for the sake of the national security". While it is obvious that the cartoon is merely a satire, the Chief Secretary for Administration said the cartoon was "completely misleading".⁵³
- (4) In December 2021, another political cartoonist, Justin Wong Chiu Tat, also an assistant professor at Hong Kong Baptist University ("HKBU"), resigned from his teaching post and left Hong Kong. In an interview in December 2022, he disclosed the reason for leaving, saying that he learnt from his supervisor that an academic article he wrote about the anti-government protests in 2019 "may have some problems" and the HKBU had reported it to the national security police. The HKBU denied his accusation when enquired by the press. Yet, Wong said he was told by a former colleague that the police had enquired the university about the article. He

⁵¹ "Hong Kong police complain to newspaper over cartoon showing riot squad called to school to deal with unruly pupils", *South China Morning Post*, 13 October 2022, <https://www.scmp.com/news/hong-kong/society/article/3195753/hong-kong-police-complain-newspaper-over-cartoon-showing>

⁵² "Hong Kong's John Lee defends labour sec.'s criticism of political cartoonist mocking talent attraction scheme", *Hong Kong Free Press*, 24 October 2022, <https://hongkongfp.com/2022/10/24/hong-kongs-john-lee-defends-labour-sec-s-criticism-of-political-cartoonist-mocking-talent-attraction-scheme/>

⁵³ "Hong Kong newspaper Ming Pao criticised by No. 2 official over comic strip about Beijing ruling on security law", *Hong Kong Free Press*, 6 January 2023, <https://hongkongfp.com/2023/01/06/hong-kong-newspaper-ming-pao-criticised-by-no-2-official-over-comic-strip-about-beijing-ruling-on-security-law/>

also mentioned that he faced enormous pressure after receiving a complaint letter from the Hong Kong Police regarding one of his newspaper cartoons in June 2021.⁵⁴

39. A well-known commentator, Tsang Chi-ho, decided to cease his column in Ming Pao in December 2022 after his articles were criticised by the government as confusing the public. In his last article, Tsang explained that Ming Pao asked him not to write the column anymore. He believed that the “new Hong Kong” in 2022 is “an era when even posting and re-posting articles on the Internet can jeopardize national security” and “an era when asking questions is equal to inciting hatred”.⁵⁵
40. In December 2022, the Security Bureau issued a press statement expressing deep regret over a “misleading and fact-twisting commentary” on the control of cannabidiol (CBD) through legislation and on anti-drug work published by Ming Pao and written by Lun Chi-wai, the ex-president of the Hong Kong Social Workers' General Union. Although the commentary itself is a mild article, the Security Bureau still heavily accused it of “paying no regard to the anti-drug efforts contributed by different sectors”, “purposely misinterpret[ing] such legislation as relating to the policy of the Mainland, which may sow discord between the Mainland and the Hong Kong Special Administrative Region” and “arous[ing] suspicion of inciting the sector to question the Government's anti-drug efforts or to pull back its support”. Finally, the press statement “expressed grave concern about the misleading articles published by Ming Pao recently”.⁵⁶ Since the police, including national security police, is directly under the Security Bureau, a blatant criticism coming from the Bureau can be seen as a threat of police action.
41. In January 2023, journalists discovered that the administrative office of the Legislative Council had adopted a new policy – omitting the names of lawmakers from all of the meeting minutes. Previously, meeting minutes showed the names of the lawmaker and the title of the government officials who speak in panel or committee meetings. But under the new policy, their names have been replaced by “a member”, “members”, or “the administration.” The HKJA said the move could undermine public understanding of official procedures and impact the media’s ability to report on and monitor the legislature.⁵⁷

⁵⁴ “黃照達稱反修例研究遭報警 浸大否認 黃：觸發辭教席移英 校方：一直護學術自由”, *Ming Pao*, 3 January 2023,

<https://news.mingpao.com/pns/%E6%B8%AF%E8%81%9E/article/20230103/s00002/1672682878338>

⁵⁵ “政府兩度批評 曾志豪被結束《明報》專欄：不用猜與鄧炳強有無關”, *HK01*, 30 Dec 2022,

<https://www.hk01.com/article/852061>

⁵⁶ <https://www.info.gov.hk/gia/general/202211/03/P2022110300780.htm?fontSize=1>

⁵⁷ “Hong Kong press group slams omission of lawmakers’ names from legislature meeting minutes”, *Hong Kong Free Press*, 18 Jan 2023, <https://hongkongfp.com/2023/01/18/hong-kong-press-group-slams-omission-of-lawmakers-names-from-legislature-meeting-minutes/>

42. In October 2022, the government further tightened the company search arrangement. Reporters can no longer view directors' residential addresses and full ID numbers.⁵⁸ Such policy severely undermines journalists' ability to conduct investigative journalism.
43. In September 2022, Ronson Chan, the chairman of the HKJA and a local news reporter, was stopped and arrested by two plainclothes police officers when he was on his way to cover a housing estate owners' meeting. According to the press release of the HKJA, Chan was asked to show his ID card and was ready to cooperate with the officers, but he was interrupted when one of them began shouting and demanded immediate compliance from him. Chan then exercised his right by asking the officer to identify himself, but the officer responded by warning Chan that he would face arrest. Despite Chan's willingness to cooperate, he was put in handcuffs a few minutes later and was arrested. The officer also forcibly twisted the handcuffs on Chan, which led to pain and bruises on his wrists. He also verbally abused Chan. Chan was eventually prosecuted for obstructing the police in the execution of their lawful duties. The HKJA was concerned with whether the police abused their powers and used routine checks to make things difficult for journalists, "[t]his undermined their freedom to report, and therefore, the freedom of the press".⁵⁹

I. Freedom of Peaceful Assembly (CO [45]-[48])

44. The Committee urged the government to respect and ensure the right of peaceful assembly, facilitate assemblies and impose proportionate restrictions only where strictly necessary to achieve one of the permitted goals identified in the ICCPR. The government should also ensure COVID-19 regulations do not unduly restrict the right of peaceful assembly. All persons arbitrarily arrested and detained in connection with the 2019 protests should also be released.
45. In the Reporting Period, not only did the government refuse to comply with the above suggestions, but it also further tightened the grip on the freedom of assembly.
46. Civil society groups ("CSOs") are severely hindered from organising activities and exercising their freedom of assembly, procession and demonstration guaranteed by the Basic Law and the ICCPR. No large-scale pro-democracy protests have been held in the Reporting Period.
47. In late-June 2022, a few days before the anniversary of Hong Kong's return to China, national security police searched the homes of six members of the League of Social Democrats ("LSD") – one of the few remaining pro-democracy groups in Hong Kong –

⁵⁸ “收緊查冊 | 董事身份證號碼後四位變「*」 住址全變通訊地址”, *HK01*, 4 Nov 2022, <https://www.hk01.com/article/832803>

⁵⁹ Press Release of the HKJA: <https://www.hkja.org.hk/en/statements/hong-kong-journalists-association-expresses-deep-regret-over-the-arrest-of-hkja-chairman-ron-sing/>
“陳朗昇被捕 | 記協指控有警員粗暴對待 質疑藉截查刁難採訪”. *HK01*, 8 Sep 2022, <https://www.hk01.com/article/812928>

and warned them not to hold any protest activities on the anniversary day. Some LSD members also admitted that they were being followed and under constant surveillance.⁶⁰ The LSD finally decided not to take to the streets on 1 July 2022.⁶¹

48. On 6 February 2023, the first day of the trial of the 47 members of the democratic primary election, a few members of the LSD went to the court building to protest and urge the authorities to release all political prisoners. During the tiny-scale protest, LSD Vice Chairman Chow Ka-fat was taken away and prevented from continuing the protest by the police, for violating the mandatory face mask law, immediately after he took off his mask while criticising the police.⁶²
49. In March 2023, the Hong Kong Women Workers' Association originally granted the police's approval to hold a lawful march on the International Women's Day (8 March), with the aim of promoting labour rights and women's rights, having nothing to do with national security or politics. The march would have been one of the first of its kind following the outbreak of Covid-19 in the city over three years ago. However, prior to the march, the police requested the organiser to provide measures in response to potential public security threats, as the police claimed that "a lot of people, including some violent groups, said that they would attend the event".⁶³ Eventually the organizer announced to cancel the march the night before the original march date. It was believed that the group decided to cancel the rally because of the pressure given by the police, worrying that if anything happened in the march the organiser would have to bear the legal responsibility. Later, the media discovered that the so-called "violent groups hoping to join the event" were actually some pro-Beijing netizens leaving comments on different social media pretending to be violent pro-democracy protesters.⁶⁴ It is highly suspected to be an orchestrated attempt to give excuses to the police for pressuring the organiser.
50. In the aftermath of the women march incident, the LSD issued a press statement disclosing that, before the cancellation of the march, national security police had warned the LSD not

⁶⁰ "Hong Kong 25: National security police search homes of activist group members ahead of July 1 anniversary", *Hong Kong Free Press*, 30 June 2022, <https://hongkongfp.com/2022/06/30/hong-kong-25-activist-group-members-under-constant-surveillance-ahead-of-july-1-anniversary/>

⁶¹ "League of Social Democrats says they will not be protesting on July 1", *The Standard*, 28 June 2022, <https://www.thestandard.com.hk/breaking-news/section/4/191689/League-of-Social-Democrats-says-they-will-not-be-protesting-on-July-1>

⁶² "【初選 47 人案】社民連法院外抗議 周嘉發遭票控違口罩令", *inmediahk.net*, 6 Feb 2023, <https://www.inmediahk.net/node/%E7%A4%BE%E9%81%8B/%E3%80%90%E5%88%9D%E9%81%B847%E4%BA%BA%E6%A1%88%E3%80%91%E7%A4%BE%E6%B0%91%E9%80%A3%E6%B3%95%E9%99%A2%E5%A4%96%E6%8A%97%E8%AD%B0-%E5%91%A8%E5%98%89%E7%99%BC%E9%81%AD%E7%A5%A8%E6%8E%A7%E9%81%95%E5%8F%A3%E7%BD%A9%E4%BB%A4>

⁶³ "Hong Kong women's group cancels rally night before demo; police say 'violent groups' sought to attend", *Hong Kong Free Press*, 4 Mar 2023, <https://hongkongfp.com/2023/03/04/hong-kong-womens-group-cancels-rally-night-before-demo-police-say-violent-groups-sought-to-attend/>

⁶⁴ "六成鼓動婦工遊行留言 9 人包辦 1 人撐警常客 舉行前兩天湧入 5 社運專頁洗版", *Ming Pao*, 8 Mar 2023, <https://news.mingpao.com/pns/%E6%B8%AF%E8%81%9E/article/20230308/s00002/1678212231678>
"女工會揭遭「洗版」後 2/3 留言一日消失", *Ming Pao*, 9 Mar 2023, <https://news.mingpao.com/pns/%E6%B8%AF%E8%81%9E/article/20230309/s00002/1678298769993>

to join the event which was supposed to be a totally lawful rally. The police told four members of the LSD that they would be arrested if they joined the march, without giving any legitimate reasons.⁶⁵ Such warning by the police is another clear proof that the government does not respect or protect the freedom of assembly anymore.

J. Freedom of Association (CO [49]-[50])

51. The Committee asked the Hong Kong government to protect the freedom of association and ensure a safe environment for the activities of CSOs including trade unions and student unions. It also urged the government to ensure that members and representatives of civil society organizations are not charged under NSL or victimized in any other way as a result of their engagement with the Committee or with other international human rights mechanisms.

52. In the Reporting Period, it is observed that the government failed to implement the above recommendations, and even further violated the freedom of association.

Trade Unions

53. First of all, trade unions are still under heavy attacks in the Reporting Period. A government official claimed that the number of registered trade unions increased from 917 in 2019 to 1455 in November 2022, proving that Hong Kong people's right to freedom of association is duly protected. However, HKCHR discovered that, according to the data of the Labour Department, the number of declared membership of all trade unions has in fact dropped for two consecutive years (2020-2021) with a decrease of 34,539 members, **suggesting a significant setback in the right to freely join a trade union of one's choice.**

54. Despite the stiffening atmosphere, the 3000-strong Cathay Pacific Airways Flight Attendants Union continues to function. In December 2022, the union sent a letter to Cathay Pacific CEO saying that the airline had introduced "inhumane flight patterns, perpetual manpower cut, additional workload and allowance cut" despite the cabin crew's "solidarity" with the company during its struggle under the Covid-19 pandemic. Later, a union leader said it had received unanimous backing from its members to take action in protest of what it saw as the company's disregard of employees' wellbeing. But CY Leung, the Former Chief Executive and current vice-chairman of the National Committee of the Chinese People's Political Consultative Conference (understood to be a state leader), publicly criticised the Union's action, and named the Union's vice chair-woman, which is a significant act of intimidation under the current political atmosphere in Hong Kong. Leung wrote that the Union's threat of a strike is inconsiderate of the "big picture", and would

⁶⁵ "Hong Kong pro-democracy party says police warned members against joining women's rights march", *Hong Kong Free Press*, 6 Mar 2023, <https://hongkongfp.com/2023/03/06/hong-kong-pro-democracy-party-says-police-warned-members-against-joining-womens-rights-march/>

harm Hong Kong's competitiveness.⁶⁶ On top of criticism from Leung, the Union also received attacks from pro-government newspaper. One prominent pro-government newspaper, Singtao Daily, even wrote that the Union was colluding with foreign anti-China elements to tank Hong Kong's tourism which was beginning to revive.⁶⁷ Collusion with foreign elements to the detriment of Hong Kong could constitute an offence under article 29 of the NSL.

55. On 16 September 2022, the Registrar of Trade Unions gazetted a notice prescribing a new form for the formation of a trade union. The new form contains a declaration that the union

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“will not perform or engage in any acts or activities that may endanger national security or otherwise be contrary to the interests of national security and/or are in contravention of the Trade Unions Ordinance (“TUO”), its subsidiary legislation and other relevant laws of Hong Kong”.⁶⁸

56. Violation of such undertaking can cause the registration to be void or cancelled. The signatory would also be guilty of an offence and shall be punished by a fine and imprisonment up to 3 months.⁶⁹ The Labour Department also reiterated that the Registrar of Trade Unions has duties pursuant to articles 9 and 10 of the NSL, and shall strengthen supervision and regulation over matters concerning national security. It also stated that the Registrar will carry out in-depth follow-up action of trade unions suspected of having activities inconsistent with TUO and their constitutions.⁷⁰ The Labour Department has created a new post of Chief Labour Officer dedicated to these national security duties.⁷¹

57. In February 2023, the Hong Kong White Collar (Administration and Clerical) Connect Union, a pro-democracy union that had called for a protest to oppose the NSL and urged people to vote in the democrats' primary election, was dissolved by the government which accused the union of using itself for purposes inconsistent with its objects or rules.⁷²

Threatening CSOs

⁶⁶ “國泰工會不排除發起罷工 梁振英批評要脅罷工是不顧全大局”, *Ming Pao*, 7 December 2022, <https://finance.mingpao.com/fin/instantf/20221207/1670403756806>

⁶⁷ “外部勢力搞歲晚政治騷 國泰工會蠢蠢欲動”, *Singtao Daily*, 4 January 2023, <https://www.singtao.ca/6135521/>

⁶⁸ G.N. 5158, 16 September 2022, available at <https://www.gld.gov.hk/egazette/pdf/20222637/egn202226375158.pdf>

⁶⁹ Trade Unions Ordinance (Cap 332), section 58. Available at <https://www.elegislation.gov.hk/hk/cap332>

⁷⁰ Manpower Panel, LegCo. 19/04/2022. “Administration's paper on creation of one additional supernumerary post of Chief Labour Officer (D1) in the Labour Department to head the Registry of Trade Unions”. CB(2)215/2022(4). Retrieved from <https://www.legco.gov.hk/yr2022/english/panels/mp/papers/mp20220419cb2-215-4-e.pdf>

⁷¹ *Ibid.*

⁷² “Hong Kong gov't deregisters pro-democracy union that called for protest ahead of security law”, *Hong Kong Free Press*, 17 Feb 2023, <https://hongkongfp.com/2023/02/17/hong-kong-govt-deregisters-pro-democracy-union-that-called-for-protest-ahead-of-security-law/>

58. At the Committee review of Hong Kong in July 2022, the Hong Kong government delegation repeatedly refused to address fears of reprisals against civil society actors taking part in the process.⁷³
59. Later, the Secretary for Security of Hong Kong accused CSOs for smearing Hong Kong and China by submitting human rights reports, and that their engagement with the UN was a form of soft resistance, without naming any group or justifying his accusations.⁷⁴ A pro-Beijing tabloid magazine also did a feature report on the organisations that made submission to the Committee, accusing them of being anti-China, and made “unfounded” human rights allegations to the Committee.⁷⁵
60. People and CSOs advocating rights are attacked and threatened based on their political opinions. In August 2022, a newspaper owned by the Chinese government named and criticized 11 environmental groups for allegedly supporting protesters and spreading anti-government messages during the anti-extradition protests, and thus urged the government to stop funding these groups. The government responded that they would take actions if needed.⁷⁶

Obstructing access to resources

61. The Hong Kong government issued a legislation proposal in December 2022 seeking to introduce tight regulations of crowdfunding activities.⁷⁷
62. Under the proposed law, all fundraising activities, online or offline, that raise funds publicly from individuals or entities of Hong Kong, or individuals or entities located in Hong Kong, are required to apply in advance to the newly proposed Crowd Funding Affairs Office (“CAO”), regardless of their purpose or location. When processing applications, the CAO will consider factors including the honesty, reputation and reliability of the applicant; proportionality of the purpose of the crowdfunding activity to its scale; as well as risks brought about by the activity to public interests, public safety and national security. Apart from the fundraisers, individual donors may also be prosecuted if they know that the fundraising activities are unlawful when making the donations.

⁷³ For more details, please see our previous press statement:

<https://www.facebook.com/photo?fbid=138616699087383>

⁷⁴ 談反修例事件 鄧炳強：七成判囚者深感懊悔, Mingpao Daily, 12 September 2022,

<https://news.mingpao.com/pns/%E6%B8%AF%E8%81%9E/article/20220912/s00002/1662918984021>

⁷⁵ “揭反華組織狂造假報告(Reveal: anti-China organisations fabricate reports)”East Weekly, 21 August 2022, p.14-17, https://epaper.singtaousa.com/flippingbook/magazine_ny/2022/20220821-EW/14/

⁷⁶ “踢爆 11 環團涉暴 狂攞數千萬公帑”, Wen Wei Po, 31 August 2022,

<https://www.wenweipo.com/a/202208/31/AP630ea25ae4b033218a600599.html>

⁷⁷ Please refer to the consultation paper, page 1

(https://www.fstb.gov.hk/fsb/en/publication/consult/doc/Crowdfunding_consultation_paper_Eng_final.pdf).

63. HKCHR is worried that the proposed legislation, by incorporating the elements of the NSL, will serve as another tool for suppressing crowdfunding activities which are regarded as "endangering national security", especially when there is no clear and specific definition of "national security" which allows the executive authorities to censor and prohibit crowdfunding activities in civil society arbitrarily. Also, the new legislation will create a chilling effect in civil society, especially on people and organisations working on public advocacy or involved in protest events in the past. Fund contributors may be afraid of breaking the law and thus stop making donations. This possible consequence could weaken the financial capacity of civil society organisations to continue their work and even survive.

K. Follow Up (CO [53]-[55])

64. The Committee required the Hong Kong government to widely disseminate the CO with a view to raising awareness of the rights enshrined in the ICCPR. The government should also ensure that the periodic report and the CO are translated into its official languages.

65. However, HKCHR discovered that the government did not translate the current CO into a traditional Chinese version and put it on the government website, while all previous concluding observations have been duly translated into traditional Chinese and are easily accessible on the website.⁷⁸

66. Besides, one must also note that the government has openly criticised and discredited the Committee and the CO without ground via a press statement immediately after the publication of the CO, saying that "we are completely dismayed that the Committee continues to express unsubstantiated criticisms towards the HKSAR".⁷⁹

L. Conclusion

67. Since the ICCPR is fully applicable to Hong Kong, the Hong Kong government is obliged to implement all the articles of the ICCPR, and respect the monitoring mechanism under the ICCPR including the Committee's concluding observations. Although concluding observations are not hard laws binding on State Parties, they are still professional, impartial and important opinions given by human rights experts recognised under the ICCPR. A government should have very strong and compelling grounds before it decides to disregard or even defy the recommendations made by the concluding observations.

68. Unfortunately, we have observed that the Hong Kong government fails to discharge such duty. It has refused to implement any of the major recommendations, and has even exacerbated the existing human rights violations.

⁷⁸ https://www.cmab.gov.hk/tc/press/reports_human.htm

⁷⁹ <https://www.info.gov.hk/gia/general/202207/27/P2022072700588.htm>

69. We demand the Hong Kong government to cease all violations of human rights and provide remedies to the affected people. We also urge the Committee to continue to monitor the Hong Kong's situation.

*Hong Kong Centre for Human Rights
April 2023*

----- End of the Report -----

About us

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

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