

# ADVOCACY BRIEF: HONG KONG

## OVERVIEW OF RESTRICTIONS TO CIVIC FREEDOMS





## INTRODUCTION

The CIVICUS Monitor has documented an alarming regression of civic space in the Hong Kong Special Administrative Region since June 2019, when mass protests erupted against a [proposed extradition bill](#) which would allow the government to send individuals, including foreigners, to mainland China to face trial in courts controlled by the Communist Party. Two years on, with increasing restrictions on civil society, the media and the exercise of civic freedoms, Hong Kong is slowly sliding into a democratic black hole. Should this continue, the impact on the region will be substantial.

Since the protests erupted, [thousands](#) of protesters, including children, have been arbitrarily arrested and human rights groups have reported numerous cases of [police brutality](#). Journalists covering the protests have also been [targeted](#).

Authorities have intensified their crackdown on dissent against pro-democracy leaders, former opposition lawmakers, lawyers and student activists using the new and draconian National Security Law (NSL). They have also criminalised peaceful protesters for violating the Public Order Ordinance, increased efforts to muzzle the press and created a chilling effect within the civil society sector.

These violations contravene rights that are enshrined in Hong Kong's de facto constitution, the Basic Law. These rights are also protected under the International Covenant on Civil and Political Rights (ICCPR), which is incorporated into Hong Kong's legal framework via the Hong Kong Basic Law and expressed in the Bill of Rights Ordinance.

In 2020, Beijing [forced out](#) opposition lawmakers, turning Hong Kong's semi-democratic Legislative Council (LegCo) into a rubber-stamping body. In May 2021, the proportion of seats that are filled by direct elections was [reduced](#). A new body was established to vet candidates and bar those deemed insufficiently patriotic towards China from standing for election.

## USE OF THE NATIONAL SECURITY LAW TO TARGET ACTIVISTS

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

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

The NSL established new national security bodies which are partially or fully controlled by People's Republic of China (PRC) officials, in violation of the Hong Kong Basic Law. It gives Hong Kong police sweeping new powers including to conduct warrantless searches and covert surveillance, and to seize travel documents of those suspected of violating the security law. The law also [contravenes](#) UN Basic Principles on the Independence of the Judiciary; enforcement of the law would undermine the right to a fair trial by a competent, independent and impartial tribunal, guaranteed under Article 14 of the ICCPR.

Hours after the Chinese government passed the law, one of Hong Kong's most prominent pro-democracy political groups, Demosisto, [disbanded](#) due to concerns over the law. One of its leaders, Nathan Law, left Hong Kong. Two further pro-independence political groups run by young people, Studentlocalism and Hong Kong National Front, also disbanded but said they will continue their work abroad.



On 1 July 2020, [ten people](#) were arrested for breaching the National Security Law, including for showing leaflets and banners with the reference to “Hong Kong Independence.” All ten were charged for inciting or abetting secession or subversion.

Hong Kong police [arrested](#) four former members of pro-independence student group Studentlocalism on 29 July 2020, on suspicion of inciting ‘secession’ for their social media posts. They were released on bail but in October 2020, one of the four, Tony Chung, was detained while attempting to seek asylum. He has been [detained](#) since October 2020 and is facing charges of secession under the NSL, and of sedition and money laundering under the Crimes Ordinance.

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

In August 2020, more than 200 Hong Kong police officers [raided](#) the headquarters of Apple Daily, a major pro-democracy newspaper and [arrested](#) its founder and pro-democracy activist Jimmy Lai, under the NSL on suspicion of colluding with “foreign forces” to endanger national security, conspiracy to defraud and intention to incite secession. The charges against Lai [seem to stem](#) from his financial support to the group Stand With Hong Kong (SWHK), which advocated for sanctions against key Hong Kong officials during the 2019 protest movement. He was released on bail after 33 hours in detention. He was subsequently detained again in December 2020 under other charges and remains in jail.

In January 2021, 55 people, including pro-democracy activists, opposition candidates, former lawmakers and lawyers, were arrested and detained under the NSL. They were [accused](#) of ‘subverting state power’ by holding and participating in primary elections held by Hong Kong’s pro-democratic party in July 2020. They were then released on bail. On 28 February 2021, police in Hong Kong [charged](#) 47 of the activists.

On 23 June 2021, Tong Ying-kit, the first person charged under Hong Kong’s year-old National Security Law, [went on trial](#), accused of “secession” and “terrorism” for riding a motorbike carrying a flag that called for liberation of Hong Kong. The trial, before three judges and without a jury, is the first under the legislation.

According to [data](#) assembled, since the NSL law was enacted in June 2020, more than 100 people have been [arrested](#) under its provisions.

## **CRIMINALISATION OF PEACEFUL PROTESTERS**

Hong Kong authorities continue to prosecute and convict peaceful protesters involved in the 2019 demonstrations, including pro-democracy leaders, for organising, inciting or participating in an ‘unauthorised assembly’. According to information received from researchers in Hong Kong, over the last 2 years around 10,000 individuals have been arrested due to peaceful protests with an estimated 2,600 prosecuted.

The ‘unauthorised assembly’ charge is based on [violations](#) of Hong Kong’s Public Order Ordinance, which requires organisers to notify police of demonstrations involving more than 30 people at least seven days in advance, and requires organisers to get a “notice of no objection” from the government before proceeding. The charge of “unauthorised assembly’ carries up to five years in prison. The United Nations Human Rights Committee has [criticised](#) the law, saying that “it may facilitate excessive restriction” to basic rights. The following are a few illustrative examples of how the law has been used to stifle peaceful protests.

Hong Kong authorities [arrested](#) high profile pro-democracy activist Joshua Wong on 24 September 2020,. He was charged with ‘unauthorised assembly’ and for violating the anti-mask ban. The mask ban was introduced in 2019 using the colonial-era Emergency Regulations Ordinance (ERO) law.





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

On 6 May 2021, while he was imprisoned, a court in Hong Kong handed [jail terms](#) to Joshua Wong and three opposition members of the city’s District Council for attending a vigil commemorating the 1989 Tiananmen massacre. Wong was sentenced to 10 months’ further imprisonment, while district councillor Lester Shum was sentenced to six months jail. Fellow councillors Tiffany Yuen and Janelle Leung were each handed four-month sentences.

In April 2021, the courts [sentenced](#) ten pro-democracy activists to between eight and 18 months in prison for taking part in two ‘unauthorised assemblies’ on 18 and 31 August 2019 violating the Public Order Ordinance. The gatherings were part of [a series of mass protests](#) triggered by the proposed Extradition Bill.

Among the ten include; media mogul Jimmy Lai and veteran trade unionist Lee Cheuk-yan who were jailed for 12 months. Veteran rights campaigner and former opposition lawmaker Leung Kwok-hung, was sentenced to 18 months, with former lawmaker and rights activist Au Nok-hin getting 10 months and former Labour Party lawmaker Cyd Ho eight months. The court also handed down suspended 12-month jail terms to barrister and former opposition lawmaker Margaret Ng and Martin Lee, the founding chairman of Hong Kong’s Democratic Party. Lawyer Albert Ho was also handed a 12-month suspended sentence, while labour rights activist and former lawmaker Leung Yiu-chung was handed an eight-month suspended sentence.

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

On 4 June 2021, the authorities [banned](#) the annual Tiananmen massacre vigil for a second straight year, citing coronavirus social distancing restrictions and arrested barrister and activist Chow Hang Tung, vice-chairwoman of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (HKA) for breaching section 17A(1D) of the Public Order Ordinance by ‘promoting an unauthorised assembly’. She was released the following day on bail.

## **FAILURE TO HOLD POLICE ACCOUNTABLE FOR ABUSES**

[Police officers](#) have been recorded beating, pepper-spraying and teargassing people during protests in 2019, including those subdued on the ground; shooting and blinding several individuals; unnecessarily tackling demonstrators to the ground, including pregnant women, children and older people; and giving patently improbable and outright false explanations about their actions in press conferences.

Civil society groups have also documented further allegations of [torture and other ill-treatment](#) against protesters being beaten, kicked, strip searched, sexually assaulted and denied access to medical treatment in detention. Protesters have been [attacked by thugs](#) with impunity. There were numerous [cases](#) of harassment and attacks against journalists being pepper sprayed, assaulted and hit by rubber or sponge bullets. According to human rights groups, no police officers alleged to have committed abuses during the 2019 protests have been held [accountable](#).



## PERSECUTION OF THE ‘HONG KONG 12’ ACTIVISTS

On 23rd August 2020, the Chinese coast guard [intercepted a boat](#) and detained 12 pro-democracy youth activists who were fleeing from Hong Kong to Taiwan. The group known as the ‘Hong Kong 12’ included Andy Li, an activist who had been [arrested](#) in Hong Kong under the National Security Law. Others on the boat were peaceful protesters accused of arson, rioting, assaulting the police and other crimes under Hong Kong law, and were either wanted by the Hong Kong police or had been barred from leaving the city under bail conditions.

Following their arrest, the 12 were then taken to Shenzhen on mainland China and held incommunicado. Their [one-day trial](#) was effectively closed to the public and the trial date was announced three days earlier, leaving family members no time to travel to Shenzhen and complete the COVID-19 quarantine. They were assigned government-appointed [lawyers](#); multiple mainland lawyers attempted to represent them at the families’ request, but were [threatened](#) by the Chinese authorities to force them to drop the cases.

On 30 December 2020, a Chinese court sentenced ten of the activists to between seven months and three years in prison for illegal border crossing. Of the two who organised the boat journey, Tang Kai-yin, was sentenced to three years. Quinn Moon was given two years. Eight activists received seven-month sentences and were repatriated to Hong Kong in March 2021. Andy Li was taken to Yuen Long police station soon after arriving back and [arrested](#) for “colluding with foreign forces” under the draconian national security law. The remaining two, Liu Tsz-man and Hoang Lam-phuc – aged just 16 and 17 – were repatriated following their trial into the custody of the Hong Kong police.

On 30 April 2021, nine of the individuals, including Hoang Lam-phuc, were [charged](#) with perverting the course of justice.

## CRACKDOWN ON THE MEDIA

Press freedom is facing a [grave threat](#) in Hong Kong. News outlets are increasingly being forced to self-censor due to threats posed by the National Security Law. In September 2020, Hong Kong police announced that the designation of “media representative” would be limited to government-registered and “well-known” international agencies. Foreign reporters have also been subject to new restrictions under the National Security Law.

Jimmy Lai has been [detained](#) since December 2020. He is facing multiple charges, including conspiracy to collude with foreign forces; fraud; conspiracy to assist an offender; organising and participating in unauthorised assembly; participating in unauthorised assembly; and inciting others to take part in unauthorised assembly. On 15 May 2021, authorities announced they had frozen assets belonging to Lai under the national security law. It marked the first time a company has been targeted by the controversial legislation.

On 22 April, journalist Bao Choy (real name Choy Yuk Ling) was [convicted](#) by the West Kowloon Magistrates’ Courts of violating the Road Traffic Ordinance and fined HK\$ 6,000 (about USD 770). She was accused of making false statements as to the purpose of accessing a vehicle registration database in her efforts to obtain information whilst doing research for an award-winning documentary which highlighted police inaction during a 2019 mob attack that targeted pro-democracy demonstrators in the district of Yuen Long.

In May 2021, Hong Kong’s government broadcaster [fired](#) an outspoken journalist amid an ongoing crackdown on critical voices in the city following the passage of the NSL. Radio Television Hong Kong (RTHK), a government department said it wouldn’t renew the short-term contract of Nabela Qoser after her hard-hitting questioning of city officials during the 2019 protest movement.



On 17 June 2021, Hong Kong authorities [arrested](#) five company executives of the Apple Daily news outlet for their role in the publication of more than 30 articles that called on foreign countries to impose sanctions. All were charged with “colluding with a foreign country or with external elements to endanger national security” under the NSL.

The media organisation’s premises were also raided by 500 police officers who took away computers and documents, including some containing journalistic materials. Authorities highlighted Article 43 of the NSL, which gives police extensive powers to search premises, seize items and obtain information. Following the raid, the board of Next Digital, the newspaper’s parent company, announced that the 26-year-old Apple Daily would publish its last edition and [shut down](#) operations on 26 June 2021.

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

## **CIVIL SOCIETY GROUPS AT RISK**

The introduction of the NSL in 2020 has also dramatically changed the environment for civil society in Hong Kong, greatly impeding the ability of civil society to carry out their work. The [entire staff](#) of some organisations quit on the eve of the law’s introduction. Other groups have stopped short of disbanding, but have instead exercised [greater caution](#) in their activities. While arrests under the NSL during the year focused primarily on persons and organisations connected with the 2019 demonstrations and the democratic opposition rather than NGOs as such, the chilling effect of the crackdown on the entire sector cannot be overstated.



## RECOMMENDATIONS

### To the Hong Kong Special Administrative Region government:

- Repeal the National Security Law in the Hong Kong, as it is not compliant with international human rights law and standards.
- Abolish provisions in Part III of the Public Order Ordinance relating to the need for permission for protests and bring the ordinance in line with the ICCPR and other international law and standards.
- Drop all criminal proceedings against human rights defender, activists, journalists, political figures and others who have been targeted solely for the peaceful exercise of their right to the freedoms of expression and peaceful assembly and ensure that those already detained are immediately and unconditionally released.
- Establish a fully independent, impartial, effective and prompt investigation into the use of excessive force by law enforcement during protests in 2019 and 2020. This includes excessive use of force by police, allegations of torture and other ill-treatment in detention and the treatment of journalists.
- Ensure that journalists can work freely and without fear of criminalisation or reprisals for expressing critical opinions or covering topics that the government may deem sensitive.
- Ensure the rights to freedom of expression and association for civil society organisations and that no one is criminalised for exercising the right to freedom of association, nor subjected to threats, attacks, harassment, smear campaigns, intimidation or reprisals for their human rights work.

### To the international community:

- Make public statements in relevant debates at the UN Human Rights Council, particularly with the Special Rapporteur on freedom of peaceful assembly, raising the concerns outlined above, with a view to supporting formal Council action if human rights obligations are not upheld.
- Support the call by 50 United Nations human rights experts to establish a special mandate at the UN Human Rights Council to monitor and report on human rights conditions across China, including Hong Kong;
- Call on the Hong Kong government to protect the rights to the freedoms of association, peaceful assembly and expression, and release all those arbitrarily detained for their peaceful activism.
- Take steps through embassies and representations to react to harassment, arbitrary arrests and prosecution of human rights defenders and activists, including by attending trials, issuing statements and visiting activists in detention.
- Support and protect civil society organisations and human rights defenders so they are enabled to carry out their activities.
- Provide protection and support for Hong Kong activists forced to flee the country because of their activism.