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**Submission by Human Rights Watch to the United Nations Human Rights Committee
in Advance of its review of China (Hong Kong)**
June 2022

This memorandum provides an overview of Human Rights Watch's central concerns with respect to the Chinese government's human rights practices, submitted to the United Nations Human Rights Committee (the "Committee") in advance of its review of China (Hong Kong) at its 135th session in June/July 2022. This submission, which draws on years of research and documentation by Human Rights Watch, covers the authorities' misuse of national security legislation, severe restrictions on freedom of the media, and pressure on a once-independent judiciary, among other issues. We hope it will inform the Committee's assessment of the Chinese government's compliance with the International Covenant on Civil and Political Rights (ICCPR).

Constitutional and legal framework within which the Covenant is implemented (arts. 2 and 14)

In November 2016, China's top legislative body, the National People's Congress Standing Committee (NPCSC), issued an "interpretation" of the Basic Law, Hong Kong's functional constitution, and compelled the Hong Kong courts to disqualify two pro-independence legislators, Yau Wai-ching and Sixtus Baggio Leung. That court decision later led to the disqualification of four pro-democracy legislators.

While article 158 of the Basic Law empowers the NPCSC to interpret the Basic Law, it should not be interpreted to allow the NPCSC to intervene in cases currently before the courts. The United Nations Basic Principles on the Independence of the Judiciary provide that it is "the duty of all governmental and other institutions to respect and observe the independence of the judiciary." The principles prohibit "any inappropriate or unwarranted interference with the judicial process."

State of emergency and laws on national security, anti-sedition and antiterrorism (arts. 2, 4, 7, 9, 10, 14, 15, 17, 18, 19, 21, 22 and 25)

The National Security Law (NSL) was Beijing's most aggressive assault on the freedoms of Hong Kong people since the transfer of the city's sovereignty in 1997. It was imposed by bypassing the limited democratic oversight in Hong Kong, and despite staunch opposition to it by Hong Kong people and civil society.

The NSL was inserted into Annex III of the Basic Law. Hong Kong's "one country, two systems" constitutional arrangement means that China's national laws do not apply to the city. While article 18 of the Basic Law gives the NPCSC powers to add laws to Annex III, the laws must undergo either legislation or promulgation. Instead of legislation, which would have involved the Hong Kong government

introducing the NSL to the then semi-democratic Legislative Council for review, the Hong Kong chief executive Carrie Lam simply issued a legal notice in the Government Gazette, applying the NSL on Hong Kong verbatim. The NSL was the first time that a Chinese law carrying criminal penalties was introduced to Hong Kong through promulgation and without a legislative process.

The new law undermines Hong Kong's rule of law and human rights guarantees enshrined in the Basic Law and contravenes the ICCPR as it criminalizes peaceful speech and other protected rights and freedoms, creates specialized secret security agencies, denies fair trial rights, provides sweeping new powers to the police that facilitate the violation of rights, imposes severe restraints on civil society and the media, and weakens judicial oversight.

Two years since its imposition, the NSL has been used to [dismantle](#) the pillars of Hong Kong's freedoms. Basic civil and political rights long protected in Hong Kong—including freedom of expression, association, and peaceful assembly—are being erased. Over 180 [people](#) have been arrested for violating the NSL. University students rallying peacefully on campus were arrested on national security grounds because the attendees had shouted pro-independence slogans. Even [clapping](#) in a [court](#) hearing has been criminalized as “sedition.” The Chinese government has also taken rapid-fire steps to reshape multiple sectors and institutions in Hong Kong, from the film industry to universities to the civil service.

Tens of thousands of Hong Kong people have emigrated since the NSL's imposition, but the NSL's extraterritoriality provisions (arts. 37, 38) threaten their freedoms even when they are abroad. Anyone who criticizes the Hong Kong or Chinese governments anywhere in the world can potentially be charged with violating the security law, putting them at risk if they visit Hong Kong, or if their own governments—or governments of countries they visit-- agree to extradite them to Hong Kong. The Hong Kong government, for example, has [threatened](#) to seek extraditions of Ted Hui, a former pro-democracy legislator in exile in Australia.

In one particularly concerning case regarding Hong Kong's use of counterterrorism legislation, in August 2021 Hong Kong NSL police [arrested](#) four student union leaders at the University of Hong Kong for “advocating terrorism” after they passed a union motion expressing sympathy for a man who committed suicide after stabbing a police officer.

The new Hong Kong chief executive, John Lee, has praised Beijing's mass abuses in Xinjiang of Uyghurs and other Turkic Muslims under the guise of countering terrorism, which Human Rights Watch has found amount to crimes against humanity. Lee said these abusive policies are “worthy of consideration” for Hong Kong as the city faces a “growing” threat of “domestic terrorism” and “black violence”—terms meant to broadly encompass pro-democracy protests and pro-independence movements, among other activity.

The Committee has repeatedly raised concerns over Hong Kong's colonial-era sedition law and asked the government to amend its legislation to comply with the ICCPR. Instead of acting on the recommendations, in 2020 the Hong Kong government invoked the sedition law for the first time since 1997 as part of the citywide crackdown on dissent. Nearly [60](#) people who exercised their right to freedom of expression have since been arrested for the offense. Activist Tam Tak-chi was [convicted](#) for chanting political slogans and sentenced to 40 months in prison. A man who put up posters in public was handed an eight-month jail term.

The Human Rights Committee should call upon the Government of the People's Republic of China to:
Repeal the National Security Law or bring it into conformity with the ICCPR.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person (arts. 6, 7, 9, 10 and 14)

Human Rights Watch, along with numerous other nongovernmental organizations, United Nations human rights experts, and Hong Kong legislators have long expressed concerns to the Hong Kong government about the inability of existing police complaints mechanisms, the Complaints Against Police Office (CAPO) and the Independent Police Complaints Council (IPCC), to credibly investigate allegations of police abuse. Hong Kong public opinion polls have consistently shown that over 80 percent of people support an independent commission of inquiry to look into police misconduct. And on November 19, 2020, the Hong Kong High Court ruled that the government had violated its Bill of Rights by not providing an independent mechanism for complaints about police. However, Hong Kong's leaders, including Chief Executive Carrie Lam and her successor, John Lee, have repeatedly insisted that existing mechanisms are adequate.

The Hong Kong government showed [disregard](#) for the health and safety of hundreds of arbitrarily detained pro-democracy leaders and activists, who are at heightened risk from Covid-19, particularly during the city's earlier surge in cases. A 75-year-old political activist, Koo Sze-yiu, continues to be held in pre-trial detention, despite suffering from Stage 4 rectal cancer.

Some protesters and US lawyer Samuel Bickett have [complained](#) about mistreatment under police custody, such as delayed access to lawyers and food, and having the cell temperature deliberately turned down while being denied access to warm clothes. Others, including activist Joshua Wong, [alleged](#) that they were beaten and abused in detention facilities.

The Human Rights Committee should call upon the Government of the People's Republic of China to:
Work with an independent, international panel of experts to review instances of alleged police abuse.

Access to justice, independence of the judiciary and the right to a fair trial (arts. 2 and 14)

The Chinese government has stepped up pressure on Hong Kong's independent judiciary, expressing anger at judges' performance, especially in handling cases related to the 2019 protests. Beijing-controlled newspapers *Wen Wei Po* and *Ta Kung Pao* have run articles and opinion pieces that repeatedly named and attacked judges whom they accused of being biased towards the pro-democracy movement, criticizing them when they question police or prosecution evidence, or when they hand down sentences Beijing considers too lenient. These media outlets have called for such judges to be punished for "encouraging chaos on the streets."

In November 2020, the Hong Kong Bar Association wrote to Secretary for Justice Teresa Cheng, calling on her to "defend the judiciary and individual judges against these pernicious accusations," which it says, "hover on the margins of a contempt of court." Cheng is not known to have taken any actions to protect judges.

Beijing's newspapers and pro-Beijing politicians have also attacked the bar association's then chairperson, Paul Harris, who had called on the government to revise the NSL so that it is consistent with the Basic Law.

The papers called Harris “an anti-China politician,” and baselessly linked the organization he co-founded, Hong Kong Human Rights Monitor, with US intelligence agencies. Beijing’s representative office directly called for Harris’ resignation in April 2021^{??}. They have also threatened to take away the bar association’s statutory powers, including those to certify barristers, which would have serious consequences for lawyers’ independence. Harris did not seek re-election, and after the NSL police summoned him, he left Hong Kong abruptly in March 2022.

In April 2022, another prominent human rights lawyer, Michael Vidler, also closed his law firm of 19 years and left Hong Kong, though without giving an [explanation](#).

The NSL has carved out a separate track through which political cases will be heard, one in which cases are handled by special police officers, handpicked prosecutors and judges, and even a special unit in the correctional services. Suspects are deprived of important procedural protections normally available under Hong Kong’s legal system.

The Chinese government appears to be building up a case that Hong Kong needs “judicial reforms.” In marked departure from previous government records that asserted a separation of powers, Chief Executive Lam, in September 2020, instead said she hoped the executive, judicial, and legislative branches would cooperate with each other. Zhang Xiaoming, deputy director of the central government’s Hong Kong and Macau Affairs Office, asserted that, “Now is the time for judicial reforms.” Although the government has not yet formally announced concrete measures, pro-Beijing politicians have put forward a number of proposals, ranging from firing “unpatriotic judges” to introducing “political education” of judges.

The Human Rights Committee should call on the Government of the People’s Republic of China to:

End its efforts to manipulate the judicial system for political ends, particularly by abandoning holding “political cases” within NSL courts.

Freedom of expression (arts. 19, 20 and 21)

The Chinese government is assaulting Hong Kong’s independent media.

It transformed the independent public broadcaster, Radio Television Hong Kong (RTHK), into a pro-Beijing propaganda outlet. It did so by setting off a series of attacks against it beginning around February 2020, when the Hong Kong police complained about a satirical episode of the popular show “Headliner,” claiming the episode “misled” the audience about the police. These attacks snowballed into a suspension of “Headliner,” then a review of RTHK’s management, and finally a replacement of the chief of RTHK to a career government bureaucrat who has since censored programs and punished outspoken hosts and journalists.

The Hong Kong government has also forced one of Hong Kong’s most popular newspapers, *Apple Daily*, to close because it promotes democracy and reports on government abuses. Hong Kong police raided the paper’s offices in August 2020, and arrested its owner, Jimmy Lai, his two sons, and four top executives of the paper’s parent company, the Next Media group. Lai faces multiple charges, including one under the NSL.

Facing arrests and intimidation, other important Chinese language media including *Stand News* and *Citizen News*, shut down. In April 2022, the arrest of veteran journalist Allan Au for allegedly producing

and publishing seditious material in April 2022 heightened fear among Hong Kong's embattled community of journalists.

The Human Rights Committee should call upon the Government of the People's Republic of China to:

Drop prosecutions of activists, journalists, and others for their exercise of free speech, and

Allow independent media outlets to function free of state harassment and interference.

Right of peaceful assembly (arts. 7, 9, 10, 19 and 21)

Hong Kong's Public Order Ordinance requires people to apply in advance to the police to demonstrate, a requirement that the Committee has criticized as being contrary to the right to peaceful assembly. Since early 2020, Hong Kong police have repeatedly denied protest applications. The police cited the Covid-19 pandemic for these prohibitions, even though the organizers had said they would take appropriate social distancing and other preventive measures. On several occasions since March 2020, people who peacefully protest have been fined for breaking Covid-19 rules; those who shout the slogan "Liberate Hong Kong" have been arrested for violating the NSL.

The Hong Kong authorities have arrested over 10,000 people for the 2019 protests: 2,500 have been prosecuted, and, according to the police, more than 1,100 people have been [convicted](#). Among them, some have been charged with "unlawful assembly," a crime under the Public Order Ordinance. Prominent activists convicted of "unauthorized assembly" include pro-democracy lawyers Martin Lee and Margaret Ng.

In another case, Joshua Wong and three young activists were convicted of "unauthorized assembly" for marking the anniversary of the 1989 Tiananmen Massacre in Victoria Park in 2020. For lighting candles and sitting down in the park, Wong was given a 10-month sentence. This adds to his existing sentence of 13½ months for taking part in another unauthorized protest in 2019, when protesters surrounded police headquarters. Wong's case is typical among prominent activists, whose prison terms are lengthening as the government brings an increasing number of charges against them.

The Hong Kong government has also effectively banned the Victoria Park vigil—the only place under Chinese sovereignty where the 1989 Tiananmen Massacre was publicly commemorated every year. The Hong Kong police banned the gatherings in 2020 and in 2021, citing public health grounds. In 2021, the government stepped up its efforts by arresting the lead organizer ahead of the vigil, Chow Hang-tung, cordoned off the park, and stationed thousands of officers throughout the city to prevent protests. The vigil organizing group, the Hong Kong Alliance in Support of Patriotic Democratic Movements in China, was forced to disband in September 2021 after police arrested its leaders, raided its "June 4th Museum," and froze its assets as part of the police's investigation into the group's alleged NSL violations.

Beijing-controlled newspapers also intimidated and shut down another major protest organizer, the Civil Human Rights Front (CHRF), claiming that the group's actions "bring chaos and disasters to the city," and was "supported by foreign anti-China forces." Hong Kong police then threatened to "take actions" against CHRF for being an "unlawful organization." Under such pressure, some participating groups withdrew from CHRF. CHRF's convenor, Figo Chan, faces at least 14 counts of crimes involving his efforts to organize peaceful protests in 2020, and has been held in custody since May 2021 for "organizing unlawful assembly." CHRF disbanded in August 2021.

*The Human Rights Committee should call on the Government of the People's Republic of China to:
Bring the Public Order Ordinance into conformity with the relevant provisions of the ICCPR, and
quash convictions that were brought under the Public Order Ordinance.*

Freedom of association (art. 22)

Over 50 groups across a cross section of Hong Kong's civil society have [disbanded](#) since the imposition of the NSL. They included some of Hong Kong's oldest civil society groups, such as the city's second-largest labor union, the Hong Kong Confederation of Trade Union, and the Hong Kong Professional Teacher's Union, as well as newer organizations that formed since the 2019 mass protests.

Police have also demanded information from civil society groups, citing provisions in the NSL. Some people were arrested for refusing to hand over data. A member of the Victoria Park vigil organizing group, Hong Kong Alliance, has pleaded guilty for not complying with a police order to provide information. His sentencing is [pending](#).

Participation in public affairs (arts. 2, 3, 25, 26 and 27)

The Chinese and Hong Kong governments have taken multiple actions to reduce Hong Kong's semi-democratic Legislative Council (LegCo) to a rubber-stamp body.

In July 2020, the Hong Kong government postponed by a year the LegCo elections, originally slated for September 2020 during a peak of Covid-19 infections in the city. Pro-democracy candidates were expected to make considerable gains.

The Chinese government then issued a decision in November 2020 to disqualify Hong Kong legislators who "publicize or support independence," "seek foreign interference," or pursue "other activities that endanger national security." Following this decision, the Hong Kong government immediately disqualified four pro-democracy legislators. Fifteen other pro-democracy legislators resigned, leaving LegCo without any effective pro-democracy opposition.

On January 6, 2021, Hong Kong police arrested 53 pro-democracy politicians for "subversion" because they had organized or participated in a public opinion poll in July 2020 to coordinate pro-democracy candidates for upcoming LegCo elections. Despite the government's threats at the time of the poll, including raiding the office of the poll organizers, over 600,000 Hong Kong people participated.

In March 2021, Beijing imposed further "electoral reforms," changing the rules so that only those loyal to the Chinese Communist Party could win a seat in Hong Kong's elections. For example, a pro-Beijing committee now vets all legislative candidates.

In April 2021, following citizens' calls to cast blank ballots to protest the changes, the Hong Kong government revised the electoral laws to prohibit "incitement of others to cast blank ballots," with sentences of up to three years in prison. At least 10 people have been arrested under this offense and the Hong Kong [government](#) said it would seek the extradition of seven others. Three people have been [convicted](#) and handed suspended sentences for sharing or writing social media posts that called on the

public to cast blank ballots. The series of policy changes and mass arrests of pro-democracy candidates and critics meant that there was no genuine competition in the 2021 LegCo elections.

In May 2022, Beijing handpicked John Lee, former security chief of Hong Kong responsible for police abuse during the 2019 protests, as the sole “candidate” in a one-man “election” in blatant disregard of Hong Kong people’s right to universal suffrage. The selection of Lee heightens concerns of an expansion of Beijing’s repressive policies in the city.

The Human Rights Committee should call upon the Government of the People’s Republic of China to:

Immediately reinstate Hong Kong people’s rights to political participation, including the rights to vote for the candidate of their choice and to run for political office.