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Abstract:

This report presents an assessment of the situation of artistic freedom and human rights in Hong Kong, with a specific focus on recent developments related to the seizure of the sculpture "The Pillar of Shame" and its implications for the art market. The report examines the actions of the Hong Kong government, the impact on artists and exhibition venues, and the broader implications for freedom of expression and the protection of human rights in the region. It provides recommendations for the Hong Kong authorities and relevant stakeholders to address the concerns raised and uphold international standards of artistic freedom and human rights.

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1. Introduction

1.1. NGO DEI is a dynamic organization committed to promoting freedom in Hong Kong through the transformative power of art and culture. In just two years, we have successfully organized over 90 inspiring art and cultural events, and in 2022, we extended our support by providing essential humanitarian aid to aid over 80 Ukrainian migrants in their settlement in Europe. Despite our humble beginnings, we remain steadfast in our mission to make a significant impact through our initiatives. With the invaluable support of like-minded individuals who share our vision, we strive to achieve enduring success in our endeavors.

1.2. AIDOH (Art In Defence Of Humanism) was created by the Danish artist Jens Galschiøtas a group focusing on the inhuman treatment of people in different countries related to political, religious or economic interests.

1.3. Humanitarian China

Humanitarian China is a US-based NGO focused on human rights in China. Founded in 2004 by Zhou Fengsuo, Zhao Jing, and Xu Gang, it provides humanitarian support, promotes civil society, and advocates for human rights and freedom of expression. The organization assists political prisoners, raises awareness of human rights issues, and supports dissidents. It operates without government or partisan funding, relying on volunteers and maintaining minimal operating costs.

1.4. Human Rights in China

Human Rights in China (HRIC) is a Chinese non-governmental organization (NGO) founded in March 1989 by overseas Chinese students and scientists. The organisation actively engages in case and policy advocacy, media and press work, and capacity building. HRIC promotes international human rights and advances the institutional protection of these rights in the People's Republic of China.

1.5. Purpose and Scope of the Report

This report focuses on the situation of artistic freedom and human rights in Hong Kong, with specific attention to recent events related to the seizure of the sculpture "The Pillar of Shame." It aims to provide an analysis of the implications of these developments for artistic freedom, freedom of expression, and the protection of human rights in Hong Kong. The report also offers recommendations to address the concerns raised.

2. Context: Artistic Freedom and Human Rights in Hong Kong

2.1. Overview of Hong Kong's Cultural Landscape

Hong Kong has long been regarded as a vibrant hub for arts and culture in Asia. Its unique position as a Special Administrative Region of China with a high degree of autonomy has fostered a rich artistic environment that values freedom of expression, diversity, and creativity. The city has been a haven for artists, collectors, and art enthusiasts from around the world.

2.2. Importance of Artistic Freedom in a Democratic Society

Artistic freedom is an essential component of any democratic society. It allows artists to explore and express diverse perspectives, challenge norms, and engage in critical dialogue. Art has the power to inspire, provoke thought, and contribute to social and political discourse. Protecting artistic freedom is crucial for the development of a vibrant and inclusive

cultural scene.¹

2.3. International Legal Framework on Artistic Freedom and Human Rights

Numerous international human rights instruments recognize and protect the right to artistic freedom, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. These instruments emphasise the importance of artistic freedom as a fundamental right that should be respected, protected, and fulfilled by states.²³⁴



Photo: May James/HKFP.

¹ Universal Declaration of Human Rights Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

² Universal Declaration of Human Rights (UDHR): Article 27: Recognizes the right of everyone to participate in cultural life, enjoy the arts, and share in scientific advancement. It emphasizes that everyone has the right to the protection of the moral and material interests resulting from their artistic productions.

³ International Covenant on Civil and Political Rights (ICCPR): Article 19: Safeguards the right to freedom of expression, including artistic freedom, by protecting the freedom to seek, receive, and impart information and ideas through any media and regardless of frontiers.

⁴ UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005): This convention emphasizes the importance of artistic freedom and the diversity of cultural expressions. It recognizes the sovereign right of states to adopt measures to protect and promote the diversity of cultural expressions, including through support for artistic freedom



Hong Kong University students on Thursday cleaned the “Pillar of Shame,” a statue on campus that memorialises those killed in the 1989 Tiananmen crackdown in China. Credit...

Lam Yik Fei for The New York Times

3. Recent Developments: The Seizure of "The Pillar of Shame"

3.1. Overview of the Seizure Incident

The sculpture "The Pillar of Shame" by Jens Galschiøt has been a prominent symbol honouring the victims of the Tiananmen Square Massacre. It was exhibited at the University of Hong Kong for nearly 25 years until the university unexpectedly removed it on December 23, 2021. Subsequently, on May 5, 2023, the Hong Kong Police Force seized the sculpture, citing it as evidence in a trial against pro-democracy activists accused of "incitement to subversion" under the National Security Law.⁵

The Pillar of Shame held deep significance as a reminder of the tragic events at Tiananmen Square on 4 June 2023 where the People's Liberation Army killed thousands of peaceful protestors. It attracted people from diverse backgrounds who annually gathered to pay tribute and engage in cleaning rituals. The artwork represented a powerful expression of justice and collective memory, resonating with those who value democracy, human rights, and freedom of expression. Its exhibition at the University of Hong Kong fostered crucial reflections and conversations about upholding these fundamental values.

While the Pillar of Shame in Hong Kong held significant historical and cultural value, it is important to note that Jens Galschiøt has created similar sculptures representing the Tiananmen Square Massacre. These distinct installations can be found in various locations

⁵<https://www.wsj.com/articles/hong-kong-police-seize-statue-commemorating-tiananmen-massacre-29cfb98a>

worldwide, serving as poignant reminders of the universal struggle for human rights and the importance of remembering and honouring the massacre's victims.

3.2. Ownership and Legitimacy of the Sculpture

The Pillar of Shame has always been and is currently owned by Jens Galschiøt, who affirmed that the sculpture is his personal property. He emphasised that he personally funded, transported, installed, and exhibited the artwork in Hong Kong with the permission and cooperation of various entities, including the University of Hong Kong. The seizure of the sculpture without proper notification to Mr. Galschiøt or his legal representative raises concerns about due process and property rights.⁶

3.3. Implications for Artistic Freedom and Freedom of Expression

The use of the Pillar of Shame as evidence in a trial against pro-democracy activists raises significant concerns about the restriction of artistic freedom and freedom of expression in Hong Kong. Accusing individuals of "incitement to subversion" based on their involvement with the sculpture, such as participating in ceremonies or exhibitions, undermines the principles of artistic freedom and stifles critical discourse. The potential impact on artists, exhibition venues, and the broader art market in Hong Kong is considerable. NGO DEI had also been condemned by the Hong Kong SAR Government on 6th May 2023⁷, which intimidates the overseas Hong Kong organisation's artistic actions and freedom of speech even outside of Hong Kong.⁸

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SB strongly condemns organisation for making gravel

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SB strongly condemns organisation for making gravely unfounded allegations against Police's action

The Security Bureau today (May 6) strongly condemned an organisation for making gravely unfounded allegations against Police operation in collecting evidence.

The National Security Department of the Hong Kong Police Force yesterday (May 5) conducted searches with a warrant and seized an exhibit related to an "incitement to subversion" case under the National Security Law. The Hong Kong law enforcement agencies are duty-bound to bring to justice people and entities acting in violation of the laws of Hong Kong, including the National Security Law. The Police's actions sought to uphold justice. All law enforcement actions taken by Hong Kong law enforcement agencies are based on evidence and strictly in accordance with the law in respect of the acts of the persons or entities concerned, and have nothing to do with their political stance, background or occupation.

"We must point out that regarding the case concerned involving the present evidence collection, investigation has all along been on-going. To collect evidence following progress of investigation to take forward the relevant case is legal, reasonable and rational. The organisation concerned attempted to make misleading comments and request for the return of the exhibit under the guise of artistic freedom, and unreasonably condemned and maliciously smeared the lawful enforcement actions of the Police, absolutely defying the law and disregarding the rule of law," a spokesman of the Security Bureau said.

3.4. Violations of Human Rights and Due Process

⁶ [Danish artist hires lawyers to reclaim Hong Kong Tiananmen statue - Digital Journal](#)

⁷ [SB strongly condemns organisation for making gravely unfounded allegations against Police's action \(info.gov.hk\)](#)

⁸ [Petition update · Our solemn declaration to the press release from the HKSAR Gov 6.5.2023\(Today\) · Change.org](#)

The international community has expressed deep concerns over the situation in Hong Kong and the implications for artistic freedom. Several major news media outlets¹¹¹²¹³ and opinion pieces¹⁴ covered the event. Over 900 signatories¹⁵ have condemned the seizure of the Pillar of Shame and the broader erosion of artistic freedom in Hong Kong. This international outcry reflects the global recognition of the importance of protecting artistic expression as a fundamental human right.

5. Analysis of Hong Kong Government's Actions

5.1. Limitations on Artistic Freedom and Freedom of Expression

The actions of the Hong Kong government, particularly the seizure of the Pillar of Shame and the subsequent accusations against individuals associated with the sculpture, demonstrate clear limitations on artistic freedom and freedom of expression. The use of the National Security Law to target artists and pro-democracy activists undermines the rights and freedoms enshrined in Hong Kong's Basic Law and international human rights standards.

5.2. Use of the National Security Law to Restrict Artistic Expression

The application of the National Security Law to restrict artistic expression and target individuals involved in politically sensitive artwork raises concerns about the misuse and abuse of legislation meant to safeguard national security. The broad interpretation and implementation of the law in a manner that stifles artistic freedom contradict the assurances given during the handover of Hong Kong that the city's autonomy and freedoms would be respected. Additionally, in 2022, the UN Committee on Economic, Social, and Cultural Rights urged Hong Kong to review the National Security Law "to ensure full artistic freedom."¹⁶

5.3. Contradictions with International Human Rights Obligations

The actions of the Hong Kong government, including the seizure of artwork and the arrest of individuals associated with the sculpture, are inconsistent with their international human rights obligations. The right to artistic freedom, freedom of expression, and a fair trial are protected under various international human rights instruments. The government's actions violate these obligations and undermine Hong Kong's commitments to uphold human rights.

5.4. Implications for Hong Kong's Autonomy and Rule of Law

The erosion of artistic freedom and the limitations placed on freedom of expression have broader implications for Hong Kong's autonomy and rule of law. The actions taken by the Hong Kong government threaten the city's reputation as an international financial and cultural hub that respects the principles of autonomy, democracy, and the rule of law. The restrictions on artistic expression and the targeting of pro-democracy activists undermine the trust and confidence in Hong Kong's legal system.

¹¹ [Hong Kong Police Seize Statue Commemorating Tiananmen Massacre - WSJ](#)

¹² [Pillar of Shame sculpture seized by police in Hong Kong \(theartnewspaper.com\)](#)

¹³ [Seizure of Tiananmen Crackdown statue for national security case 'legal, reasonable and rational,' police say - Hong Kong Free Press HKFP \(hongkongfp.com\)](#)

¹⁴ ['Subversive' Art Is a Crime in Hong Kong - WSJ](#)

¹⁵ [Petition · Condemn Police Seizure of 'Pillar of Shame' in Hong Kong Today \(5.5.2023\) · Change.org](#)

¹⁶ E/C.12/CHN/CO/3

6. Conclusion

In conclusion, the seizure of the Pillar of Shame and the restrictions on artistic freedom in Hong Kong represent a significant challenge to the principles of artistic expression, freedom of speech, and human rights. The actions of the Hong Kong government undermine the city's autonomy, rule of law, and international reputation as a hub for arts and culture. Urgent action is needed to ensure that artistic freedom is protected, and artists and exhibition venues are free to express themselves without fear of reprisals. The international community has a role to play in advocating for the protection of artistic freedom and supporting Hong Kong in upholding its human rights obligations. Only by respecting and protecting artistic freedom can Hong Kong maintain its vibrancy as a cultural hub and continue to be a place that embraces diversity, creativity, and critical dialogue.

7. Recommendations

7.1. Call upon the Hong Kong Government to Safeguard Artistic Freedom and Freedom of Expression:

7.1.1. Urge the Hong Kong Government to refrain from utilising the National Security Law as a means to curtail artistic expression and target individuals involved in politically sensitive artwork.

7.1.2. Request the Hong Kong Government to uphold its commitments in safeguarding the rights and freedoms of its residents, including the right to artistic freedom and freedom of expression.

7.1.3. Stress the importance of ensuring due process in cases related to artistic expression, which includes providing adequate notification and transparency in the seizure and detention of artworks.

7.2. Advocate for Hong Kong's Adherence to Human Rights Obligations:

7.2.1. Recommend that the Hong Kong Government align its domestic legislation, including the National Security Law, with international human rights standards to ensure the complete respect, protection, and fulfilment of human rights.

7.2.2. Encourage the Hong Kong Government to conduct comprehensive assessments of human rights impacts to evaluate the effects of laws and policies on artistic freedom and freedom of expression.

7.3. Call for Fair Trials and Due Process:

7.3.1. Urge the Hong Kong Government to guarantee the right to a fair trial for individuals charged with offences related to artistic expression, including ensuring access to legal representation, evidence, and an impartial judicial process.

7.3.2. Highlight the importance of respecting the principle of presumption of innocence and call upon the Hong Kong Government to refrain from engaging in arbitrary arrests and detentions.

7.4. Raise Awareness and Advocate for Artistic Freedom in Hong Kong:

7.4.1 Encourage governments, international organisations, and civil society to actively raise awareness about the significance of artistic freedom and freedom of expression in Hong Kong.

7.4.2 Advocate for diplomatic efforts aimed at addressing concerns related to restrictions on artistic expression and demonstrate support for the preservation of artistic freedom in Hong Kong.

7.5. Provide Support to Artists and Exhibition Venues in Hong Kong:

7.5.1 Recommend that governments and organisations extend assistance, resources, and platforms to artists and exhibition venues in Hong Kong, enabling them to continue their work and express themselves freely.

7.5.2 Promote collaborations and exchanges with international artists and institutions to nurture cultural diversity and protect artistic freedom.

7.6. Engage in Diplomatic Efforts to Address Concerns:

7.6.1. Encourage governments and international organisations to engage in diplomatic efforts aimed at raising concerns about the erosion of artistic freedom in Hong Kong.

7.6.2 Facilitate dialogue between the Hong Kong Government and relevant stakeholders, encouraging constructive solutions that uphold artistic freedom and protect human rights.