

HONG KONG 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Hong Kong is a Special Administrative Region of the People's Republic of China. According to the 1984 Sino-British Joint Declaration and the Basic Law of the Special Administrative Region, except in matters of defense and foreign affairs, Hong Kong would have a high degree of autonomy. In 2022, China continued to dismantle Hong Kong's political freedoms and autonomy in violation of these commitments. Amendments to the Basic Law in 2021 fundamentally changed the electoral system to effectively allow Beijing to block participation by political groups of which Beijing disapproved. On May 8, 2022, Hong Kong's Election Committee selected John Lee, former secretary for security, as the city's next chief executive. Lee, the sole candidate permitted by Beijing, secured more than 99 percent of the votes in the 1,500-member selection committee, whose members were in turn vetted by the government. Critics termed the election a violation of democratic principles and political pluralism and a major step away from the Basic Law's stated aim of universal suffrage.

The Hong Kong Police Force maintains internal security and reports to the Security Bureau. The Security Bureau continues to report to the chief executive; however, the National Security Department of the Hong Kong Police Force, established by the National Security Law, operates under central government supervision, and the National Security Law permits the embedding of mainland security personnel in the department. The National Security Law also established a Committee on National Security in the Hong Kong government that reports to the central government and an Office for Safeguarding National Security staffed by members of mainland security agencies. Unaccountable under Hong Kong law, this office allows mainland China security elements to operate openly, contradicting the spirit of and past practice under the Joint Declaration. It is no longer clear if Hong Kong's civilian authorities maintain effective, autonomous control over the city's security services.

Significant human rights issues included credible reports of: arbitrary arrest and detention; political prisoners or detainees; cruel or degrading treatment or punishment by government agents; transnational repression against individuals outside of Hong Kong; serious problems regarding the independence of the judiciary; arbitrary interference with privacy; serious restrictions on freedom of expression and media, including unjustified arrests or prosecutions of journalists and censorship; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental organizations and civil society organizations; restrictions on freedom of movement and on the right to leave the territory; the inability of citizens to change their government peacefully through free and fair elections; serious and unreasonable restrictions on political participation; serious government restrictions on domestic and international human rights organizations; and significant restrictions on workers' freedom of association, including coercive actions against independent trade unions and arrests of labor union activists.

The government took few steps to identify, prosecute, and punish officials who committed human rights abuses, whether in the security forces or elsewhere in the government. Anticorruption efforts continued; at least 65 government employees were recommended for disciplinary or other administrative action for corruption offenses.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the Special Administrative Region (SAR) government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

The law prohibits such practices, but there were reports of such abuse, including medical abuse and degrading treatment. In July a panel of judges found that a lower court judge misused her judicial powers by remanding a prisoner convicted of kicking a police officer during 2019 pro-democracy protests to a psychiatric center. Some activists raised concerns that individuals in pretrial detention were committed to psychiatric centers as a form of pressure designed to coerce the individuals to cooperate with the government.

Prison and Detention Center Conditions

There were reports of prison or detention center conditions that raised human rights concerns.

Abusive Physical Conditions: During a February outbreak, COVID-19 restrictions led to serious staffing shortages, in turn limiting inmates' movement, largely confining them to their cells all day without fresh air, exercise, interaction with others, or clean clothes, according to some reports. Human rights activists alleged some prisoners and detainees went weeks largely confined to their cells, while others were placed in overcrowded cells.

Human rights activists raised credible concerns that some prisoners and individuals in pretrial detention were allegedly kept in solitary confinement for extended periods of time and, in some cases, were subjected to 24-hour lighting, excessively hot or cold temperatures, or other degrading conditions as punishment for sharing

information with other detainees or for requesting improved conditions while in detention.

Administration: The government is required to investigate allegations of problematic conditions and document the results in a publicly accessible manner, and there is an external Office of the Ombudsman. A May report by Human Rights Now, a Japan-based nongovernmental organization (NGO), indicated, however, that the mechanisms through which the government investigated and responded to these allegations did not provide an independent monitoring and complaints channel. The report also found that persons in custody often lacked access to external channels to report problematic conditions. In previous years, there were reported reprisals against detainees who sought improvements in physical conditions.

The government generally permitted prisoners and detainees access to visitors and religious observances, although such visitations were suspended during the February COVID-19 outbreak. Some activists and experts reported the restrictions reduced defendants' ability to consult with their legal counsel and prepare their defense.

Independent Monitoring: The government generally permitted legislators and justices of the peace to conduct prison visits. Justices of the peace may make suggestions and comments on matters, such as physical conditions, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates. The Human Rights Now report noted above, however, described the justices of the peace visitation program as "ineffective," and stated that the government "failed to prevent reprisals against complainants" who raised concerns to visiting justices of the peace.

The Independent Police Complaints Council is the Hong Kong police watchdog responsible for investigating alleged corruption or abuses. Human rights activists

observed that starting in December 2021, the Complaints Council was overwhelmingly dominated by pro-government figures and legislators, most of whom had no professional training in law and human rights, which activists said detracted from the Complaints Council's effective functioning and credibility.

d. Arbitrary Arrest or Detention

The law generally prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but the Hong Kong Police Force continued to make arbitrary arrests and detentions under the National Security Law (NSL) and other legislation. According to a June report by the New Zealand-based Human Rights Measurement Initiative, freedom from arbitrary arrest in Hong Kong was in the lowest “very bad” range, with a score of 3.5 out of 10.

Although the SAR and People's Republic of China (PRC) claimed the NSL was not retroactive, international observers noted that the police force's National Security Department, created by the NSL, used its sweeping investigative powers to find evidence of “sedition” or other crimes predating the enactment of the NSL and charge individuals under both the NSL and colonial-era sedition law. For example, in the September preliminary inquiry for the NSL subversion case against the dissolved Hong Kong Alliance in Support of Patriotic Democratic Movements of China (“Alliance”) and its former leaders, prosecutors cited evidence of the Alliance's activities dating back more than 20 years.

Arrest Procedures and Treatment of Detainees

Police generally apprehended suspects openly when they observed them committing a crime or with warrants based on sufficient evidence and issued by a duly authorized official. Police were also required to charge or release arrested suspects promptly. The government respected this requirement and generally

brought arrested persons before a judicial officer within 48 hours. Detainees were generally informed promptly of potential charges against them. There was a functioning bail system that allowed persons not charged to post bail to be released from detention pending the filing of charges. Such “police bail” included requirements that the arrestee submit to monthly check-ins at a police station. There was no defined period under the law within which the government was required to file charges. Activists argued that the bail system left the arrested individuals in legal purgatory. After arrest, by law the Department of Justice investigates to determine the appropriate charges for the arrestee. Interviews of suspects must be videotaped.

Under the NSL, police may require individuals arrested in connection with offenses that the government designated as involving “national security” to surrender their travel documents while an investigation is continuing, even if they are not formally charged. Police exercised this authority in numerous NSL cases.

In cases the government designated as involving “national security,” democracy activists were denied bail, and the threshold for bail was more stringent. For example, Hong Kong Watch, a United Kingdom (UK)-based human rights organization, indicated in its May report that of 113 individuals charged with “national security”-related offenses since 2020, three quarters have been denied bail. Bail conditions under the NSL place the burden of proof on the defendant to convince the judge that he or she would not “continue to commit acts endangering national security,” and such NSL or other “national security”-related cases are adjudicated only by national security judges, who are specially designated by the chief executive.

In a May report, the Center for Asian Law at Georgetown Law School described this standard as “an impossibly high bar that most defendants cannot overcome.” In an April opinion, a Hong Kong court explained that it denied bail to pro-

democracy activist Carol Ng, the former chairwoman of the dissolved Hong Kong Confederation of Trade Unions, in December 2021 because Ng “has an international influence as a result of her trade union work.” Courts have previously denied bail to defendants in “national security”-related cases because of routine interactions with foreign diplomats or journalists.

In cases where bail was granted, human rights groups noted that defendants were frequently subject to strict restrictions on their freedoms of expression and association as a condition of their bail. Typical of such restrictions was the August case of former lawmaker Albert Ho, whose bail conditions in a “national security”-related case included a nighttime curfew, a ban on any speech that “may be regarded as violating the national security law,” and a prohibition on contacting foreign officials or parliamentarians. In January a court revoked bail for pro-democracy activist Owen Chow, accepting the Hong Kong government’s argument that posts he made on social media constituted acts endangering national security.

Authorities generally allowed detainees access to a lawyer of their choice, but in December 2021, the government implemented changes to the Legal Aid system that removed defendants’ right to choose their own legal counsel in cases where defendants receive legal aid. Instead, the Hong Kong Legal Aid Department assigned lawyers to these defendants. In November after the Court of Final Appeal upheld a lower court’s decision to allow UK lawyer Timothy Owen to represent *Apple Daily* founder Jimmy Lai during Lai’s NSL trial, the Hong Kong government requested the PRC National People’s Congress Standing Committee provide an “interpretation.” Observers described the request as likely intended to result in Owen’s dismissal. In December the Standing Committee issued an interpretation stating that the chief executive may issue a certificate regarding the issue that would be binding on the courts, or the SAR’s Committee for Safeguarding National Security could decide on the issue that would not be subject to judicial review and would have enforceable legal effect. Meanwhile, Lai’s

lawyers reported that the Hong Kong Immigration Department denied an extension of Owen's work visa, preventing him from representing Lai in court.

Pretrial Detention: Prolonged pretrial detention was an increasing problem, particularly for those arrested on NSL or related charges. As of October, at least 44 individuals charged with "national security"-related offenses were in custody and awaiting trial more than one year after being denied bail. Some human rights groups called pretrial detention in "national security" cases a "form of indefinite detention without trial" that can last for months or years or of "extrajudicial punishment." Some prisoners charged with violations related to the 2019 protest movement may reportedly not face trial until November 2023 due to backlogs in the judiciary. In some cases, pro-democracy activists were denied bail and detained for longer than the maximum sentence for the charge with which they were accused.

For example, as of year's end, 17 of the 47 defendants charged under the NSL in connection with the unofficial 2020 pan-democratic primary election remained in pretrial detention. Most of these have been detained since February 2021. The latest trial start date that authorities set for the case, January 2023, would result in a pretrial detention of more than 700 days for these individuals.

Some defendants in drug and drug trafficking cases also waited several years to go to trial.

e. Denial of Fair Public Trial

Although the law generally provides for an independent judiciary, the NSL limits this independence in cases the government designates as involving "national security." Human rights groups expressed concern that defendants charged with "national security" offenses face stricter bail conditions (see section 1.d., Arrest Procedures and Treatment of Detainees); may be denied due process and a fair and

public trial; and may face extradition to the mainland for trial. Other actions by SAR authorities threatened judicial independence. In March then Chief Executive Carrie Lam rejected a Hong Kong Bar Association nominee to the commission that nominates and promotes judges. Reports indicated this was because the Bar Association chairman of the time, who proposed the nominee, was deemed anti-Beijing.

Hong Kong courts are unable to rule on the constitutionality of the NSL or declare any of its provisions unconstitutional, or to review the NSL based on incompatibility with the Basic Law or the International Covenant on Civil and Political Rights.

Trial Procedures

The law provides for the right to a fair and public trial, and the judiciary largely enforced this right. Defendants have the right to be informed promptly and in detail of the charges against them and the right to a trial without undue delay, but these rights, notably the latter, were not always upheld.

Defendants are presumed innocent, except in official corruption cases: a sitting or former government official who maintains a standard of living above that commensurate with an official income or who controls monies or property disproportionate to an official income is by law considered guilty of an offense unless the official can satisfactorily explain the discrepancy. The courts upheld this ordinance.

Trials are by jury except at the magistrate and district court levels. Under the NSL, SAR authorities may direct that a panel of three specially designated national security judges hear a case instead of a jury. In August Secretary for Justice Paul Lam ordered that two “national security”-related cases be heard in front of a three-judge panel instead of a jury: the cases of 47 defendants charged with subversion

under the NSL for their involvement in the 2020 unofficial pan-democratic primary election, and of *Apple Daily* founder Jimmy Lai were heard before a panel. Secretary Lam cited as reasons the “involvement of foreign elements” and the “risk of perverting the course of justice if the trial is conducted with a jury.” In December Lam reportedly cited similar reasons to deny a jury trial to three former leaders of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China.

In December 2021, SAR authorities limited the right of defendants receiving legal aid to choose their own lawyer, as well as the number of legal aid and judicial review cases that each lawyer may take per year. Some lawyers, activists, and experts criticized the action for restricting defendants’ right to the counsel of their choice and limiting activists’ abilities to challenge authorities’ actions. In January Tong Ying-kit, the first person convicted under the NSL, withdrew his appeal after the Hong Kong Legal Aid Department assigned him a new lawyer; according to media reports, Tong decided to withdraw the appeal because he did not trust his government-appointed lawyer.

Some claimed COVID-19 restrictions implemented in February on visitors reduced defendants’ ability to prepare their defense. A March investigation reported by *Intium Media* outlined how such restrictions affected the work of defense attorneys and impinged on defendants’ rights.

In multiple “national security”-related cases, defendants and their lawyers argued that prosecutors repeatedly delayed turning over documents to the defense, hampering defendants’ ability to prepare for court hearings. For example, in May the former vice chair of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, Chow Hang-tung, who was charged with subversion and failing to turn over documents to the police under the NSL, said that after asking prosecutors to provide relevant materials for eight months,

“defendants were given two weeks to [review] more than 30 years of documents” investigators had collected. Chow also reported that some of the documents that prosecutors handed over were “99 percent redacted,” hindering her ability to prepare her self-defense.

Under the NSL, the chief executive provides a list of judges eligible to hear cases SAR authorities designate as involving “national security,” including offenses under the NSL and the colonial-era sedition law. Some human rights groups and legal experts described this provision, which enables SAR authorities to hand pick the pool of judges to hear national security cases, as inconsistent with judicial independence.

The National People’s Congress Standing Committee determines how the NSL is interpreted, not a SAR-based judicial or elected body. The Standing Committee has the power, in cases involving foreign countries, serious (but undefined) situations, or major and imminent threats to national security, to extradite a suspect to the mainland and hold trials behind closed doors.

Political Prisoners and Detainees

SAR authorities detained and imprisoned a growing number of individuals during the year because of expressed and, in some cases, presumed, political views and participation in nonviolent political activities. The UK-based NGO Hong Kong Watch estimated that more than 720 political prisoners and detainees were in custody in January; the U.S.-based NGO Hong Kong Democracy Council estimated in May that more than 580 political prisoners and detainees were then in custody. Both organizations used a broad definition of political prisoner in their work.

Local and international observers noted that with few exceptions, those charged with NSL violations, sedition, or unauthorized assembly were peacefully

exercising freedoms of expression, political participation, assembly, and association provided for in the Basic Law and the International Covenant on Civil and Political Rights.

Transnational Repression

By the terms of the NSL, SAR authorities and the central government claim jurisdiction over any individual, regardless of nationality and location, deemed to be engaged in one of the four vaguely defined criminal activities under the NSL: “secession”; subversion; terrorist activities; or collusion with a foreign country or external elements to endanger national security. Authorities took steps to assert these claims in practice.

Threats, Harassment, Surveillance, and Coercion: In March Hong Kong police sent a letter to UK-based human rights activist Benedict Rogers accusing him of “collusion with foreign forces to endanger national security,” an offense under the NSL, and warning that the offense carries a possible prison sentence of three years to life. In August the Hong Kong Security Bureau accused three North America-based activists of “contravening the offense of subversion” after the activists announced a plan to establish a “Hong Kong parliament” in exile.

Some activists and NGOs alleged that PRC authorities engaged in surveillance and harassment of individuals from Hong Kong but living in other countries. For example, in January an individual suspected to be connected to PRC or SAR authorities filmed a UK demonstration in support of press freedom in Hong Kong, according to a report from the NGO Hongkongers in Britain. Pro-democracy groups and local news outlets have been the targets of sophisticated cyberattacks that appear to be state-backed and originating from the PRC. Pro-democracy activists have also experienced online harassment and aggressive “doxing” (identifying an individual on the internet for malicious purposes) that appears to originate from PRC-based entities. In December Amnesty International Canada

stated that it was the target of a cyberattack by PRC state-backed actors that searched its systems for information related to Hong Kong.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters and access to a court to file lawsuits seeking damages for human rights violations by SAR agencies or persons, except for employees of the Office for Safeguarding National Security, as well as the Central Government Liaison Office, depending on interpretations of the law. Some activists, however, have reported that access to these legal mechanisms is increasingly limited because of fear of retaliation from SAR and PRC authorities, restricted access to legal counsel following changes to the Legal Aid system, and the disbanding of civil society organizations that supported marginalized groups.

Property Seizure and Restitution: SAR authorities froze bank accounts of former lawmakers, civil society groups, and other political targets. In April former pro-democracy lawmaker Ted Hui, in exile in Australia, reported on social media that authorities obtained a court order under the NSL prohibiting him, his wife, and his mother from buying or selling any property in Hong Kong, which Hui called an effort to harass and intimidate dissidents by economic means.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, but there were multiple reports the SAR government failed to respect these prohibitions, including reports that PRC central government security services and the Beijing-mandated Office for Safeguarding National Security monitored pro-democracy and human rights activists and journalists in the SAR. Some of those arrested for alleged “national security”-related offenses were required to forfeit personal mobile phones and computer

devices, including before they were formally charged. Police made repeated requests to technology companies for access to individuals' private correspondence. In August a security audit by Poland-based cybersecurity firm 7A Security found that LeaveHomeSafe, the government's mandatory COVID-19 contact-tracing app, contains privacy and security risks that could jeopardize the safety of users' personal information.

Technology companies, activists, and private citizens increasingly raise concerns about the right to privacy and protection of data. The anti-doxing amendment, passed in October 2021, allows the Office of the Privacy Commissioner for Personal Data to seize and access any electronic devices on the premises without a warrant if they suspect a doxing-related offense has been committed or may be committed.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

Despite provisions of the Basic Law and government claims, the PRC and SAR governments increasingly encroached upon freedom of expression. The local government continued to prosecute individuals under the NSL, colonial-era sedition legislation, and other laws for engaging in peaceful political expression. It also intimidated journalists and their professional organizations, leading several media outlets to close.

Freedom of Expression: There were legal restrictions on the ability of individuals to criticize the government publicly without reprisal. SAR authorities frequently arrested and prosecuted individuals for speech critical of the local or central government, which it characterized as “inciting hatred against the government” or “promoting feelings of ill will or enmity between different classes”

in violation of a colonial-era sedition law. Authorities also continued to prosecute individuals for speech they alleged promoted subversion or secession in violation of the NSL. Prosecutors argued in multiple court hearings that the phrase “Liberate Hong Kong, Revolution of Our Times,” a common slogan of the 2019 pro-democracy protests, contained an inherent meaning of support for independence, a change in the SAR’s constitutional status, or both. In March a court convicted activist Tam Tak-chi of seven counts of sedition for chanting the “Liberate Hong Kong, Revolution of Our Times” slogan, and later sentenced Tam to 40 months in prison. Scholars and activists argued that the courts’ decisions failed to take into consideration protections for freedom of expression enshrined in the Basic Law, the International Covenant on Civil and Political Rights, and the NSL itself.

In February national security police arrested activist Koo Sze-yiu and charged him with attempted sedition for planning to stage a protest against the Beijing Winter Olympics outside the PRC central government’s liaison office in Hong Kong. In a June trial, prosecutors argued that Koo had brought “hatred and contempt” against the PRC and SAR governments. In July Koo was convicted and sentenced to nine months in jail; the presiding judge found that prosecutors did not need to prove an element of violence and concluded that slogans that Koo planned to use in the protest, including some criticizing the NSL, could “weaken people’s confidence in the judicial administration.”

Requirements for electoral candidacy and for taking the oath of office also limited free speech in the political arena. The law (see section 3) requires all elected officials to swear an oath of allegiance and to adhere to “patriotic” standards with respect to the PRC and SAR. SAR authorities have previously disqualified candidates for office when their oaths were deemed “invalid,” without explanation or the possibility of appeal.

The government requires all civil servants to swear an oath of allegiance. According to media reports, civil servants may lose their jobs if they refuse to swear the oath and may face criminal charges, including under the NSL, if they later engage in behavior, including speech, deemed to violate the oath. Civil service unions have expressed concerns that the red lines under the oath were insufficiently clear, and that the oath could restrict civil servants' freedom of expression even when off duty. In June the SAR government extended this requirement to Native English Teachers (who are often foreigners), and advisors working in government-run schools. The government would terminate the contracts of any such individuals who failed to swear the oath. In June Secretary for Constitutional and Mainland Affairs Erick Tsang told the legislature that a total of 129 Hong Kong civil servants and 535 other government workers were fired or resigned after failing to take an oath of allegiance to the government.

Legislation passed in 2021 prohibits inciting others not to vote in elections or to cast blank ballots. Violators are subject to up to three years' imprisonment and a fine. In July the anticorruption agency charged two individuals with inciting others to cast blank ballots during the December 2021 Legislative Council election. At least two other individuals were arrested the same month on suspicion of the same offense. Legal experts described the legislation as disproportionate and out of line with common law norms that criminalize incitement only when the behavior incited is itself illegal. In December one individual was convicted for inciting others to cast blank ballots because he shared a Facebook post from an overseas activist; he was given a suspended two-month prison sentence.

SAR legislation prohibits acts deemed to abuse or desecrate the PRC flag or anthem, including acts online. In July at least two individuals were charged with insulting the PRC national anthem, one of whom also faced a charge of desecrating the Hong Kong flag. In November one of these individuals was sentenced to three months in prison after pleading guilty to insulting the anthem. In December a

teenager was sentenced to at least six months' detention in a training center after pleading guilty to sedition and to insulting the flag and anthem. In October, 14 students at a Hong Kong high school were suspended for three days for disrespecting the national anthem and PRC flag during a flag-raising ceremony. In November one individual was arrested on sedition charges for reposting a video clip where the incorrect national anthem for Hong Kong was played before a rugby match in Seoul.

Violence and Harassment: Journalists were subject to intimidation by local and central authorities for their reporting. *Citizen News* and other media outlets cited concern for the safety of their journalists in their decisions to close. In December a freelance journalist was sentenced to 15 months' imprisonment for "possession of offensive weapons" (i.e., a multipurpose knife and laser pointer) after being arrested while filming a protest in November 2019.

In April for the first time in 26 years, the Foreign Correspondents' Club of Hong Kong announced the suspension of its annual Human Rights Press Awards in order to avoid potential legal liability under the NSL. Media reported that the closed media outlet *Stand News*, which SAR authorities charged with sedition, would have received prizes at the ceremony. At least three political cartoonists emigrated from Hong Kong between April and June, citing concerns that authorities might arrest them under the NSL or the sedition law for their work.

SAR officials and pro-Beijing media continued to accuse the Hong Kong Journalists Association of potential NSL and other legal violations. In January the SAR government's Registrar of Trade Unions announced it had launched an investigation into the Journalists Association and asked the group to provide information on its finances and activities. In April the Journalists Association held a special online meeting to discuss the possibility of disbanding, citing growing safety concerns for the association and its members. In September police arrested

Journalists Association Chairman Ronson Chan and charged him with obstructing police officers. Two plainclothes police officers reportedly asked Chan to show them his identity card while he was reporting on a story; Chan allegedly asked to see their badges, after which the police arrested him. Media rights group Reporters Without Borders called on Hong Kong authorities to drop the charges against Chan.

More than 150 foreign news outlets received complaint letters from the Hong Kong government citing their articles and editorials about the local government, the NSL, and major events in Hong Kong. These letters, often under the name of the chief executive or other high-level officials, characterized the reporting and editorials as “grossly biased,” “groundless allegations,” or as having “reached new levels of nastiness.”

Censorship or Content Restrictions for Members of the Press and Other Media, including Online Media: Reports of media self-censorship and suspected content control continued.

The operating space for independent media continued to shrink. The SAR targeted independent media that expressed views it construed as not pro-government. After using the NSL and the sedition law to forcibly close independent news outlets *Apple Daily* and *Stand News* in 2021, SAR authorities continued to prosecute the outlets’ former executives and editors on “national security”-related charges. On November 21, six former *Apple Daily* executives, including publisher Cheung Kim-Hung and Editor-in-Chief Ryan Law, pled guilty to NSL charges of collusion with foreign forces to undermine national security. According to some media reports, some of the six will testify against former *Apple Daily* owner Jimmy Lai in his national security trial, which was initially scheduled for December 1 but postponed into 2023.

According to a February report by the Belgium-based International Federation of

Journalists, at least 20 journalists and press freedom campaigners were arrested since the imposition of the NSL, most in 2021. At least a dozen of these persons were charged, and others were living in exile. A poll jointly conducted by the Hong Kong Public Opinion Research Institute, an independent polling firm, and the Hong Kong Journalists Association found that 97 percent of respondents said press freedom had gotten “much worse” in the past year, with “the government” cited by 93 percent of respondents as the cause.

In January independent online media outlet *Citizen News* announced its closure. The outlet said its decision was triggered by the closure of *Stand News*, the “deteriorating” media environment, and concern regarding staff safety. In June investigative online news outlet *FactWire* became the 10th Hong Kong news outlet to announce its closure, citing the “great change” for Hong Kong media in recent years.

On October 25, in a trial on two counts of fraud related to a lease agreement for office space, but widely perceived as part of a harassment campaign by authorities, a court found former *Apple Daily* owner Jimmy Lai guilty. On December 10, Lai was sentenced to five years and nine months in prison and fined two million Hong Kong dollars (\$257,000). In August in preliminary motions related to charges under the NSL, a court ruled that police may search the content of two mobile phones owned by Lai. Lai had argued that the mobile phones contained journalistic materials, which are protected under Hong Kong law, but the court ruled that the NSL grants police additional powers to investigate offenses that overrule local law. An appeals court subsequently affirmed the ruling.

Internet Freedom

Censorship of online content increased after the imposition of the NSL. In February and October, authorities blocked access to the website of the UK-based activist organization Hong Kong Watch and the Hong Kong Democracy Council,

respectively.

While internet access remained widespread and generally open, local authorities increasingly criminalized online speech. The NSL and its implementing regulations grant extensive powers to police to order the blocking and removal of content by message publishers, platform service providers, hosting service providers, and network service providers. Police can also intercept communications or conduct covert surveillance upon approval of the chief executive. When investigating NSL violations, police may also require a person who published information or opinions or the relevant service provider to provide information on the end users. In July the League of Social Democrats, a pro-democracy opposition party, announced that “under great pressure, [it] was forced to delete online posts that were allegedly violating the National Security Law.”

In August police arrested two administrators of the “Civil Servant Secrets” Facebook page on suspicion of violating the sedition law by publishing posts on the page that “promote feelings of ill-will and enmity.” Following the arrests, local media reported that at least eight similar Facebook pages, which allowed employees of certain government agencies or students at certain universities to post anonymously, shut down for fear of similar arrests. Local experts described the arrests as strengthening self-censorship among Hong Kong residents.

Under the 2021 anti-doxing amendment, SAR authorities are able to fine online platforms that do not comply with user information or content takedown orders or arrest their Hong Kong-based staff. Meta and Google reported denying the SAR government’s user information and content takedown orders that do not meet their company policies.

Restrictions on Academic Freedom and Cultural Events

The SAR government continued to restrict academic freedom and cultural events

on political grounds. Since the imposition of the NSL, the SAR's Education Bureau has incorporated "national security" into the SAR government-approved curriculum at all levels, beginning at the kindergarten level. The guidelines require all public schools following the official SAR curriculum to limit political expression and activities on school campuses and to submit periodic reports regarding their implementation of national security education. Activists decried the guidelines for restricting freedom of expression on campuses. By year's end, all eight of Hong Kong's publicly funded universities required undergraduate students, including international students, to complete mandatory "national security" courses.

Activists and NGOs reported that Beijing-controlled media outlets attacked and harassed academic personnel for their research and writings as well as their perceived political positions. For example, political scientist Brian Fong reportedly departed Hong Kong in February after the Beijing-controlled newspaper *Ta Kung Pao* accused him of being "pro-independence."

SAR authorities also influenced academic appointments based on the perceived political orientation or past affiliations of scholars. In February Hong Kong refused a visa to legal scholar Ryan Thoreson, whom the University of Hong Kong had hired to teach human rights law. The SAR government did not provide an explanation for the refusal, but media reports indicated the government may have refused the visa because Thoreson had worked at the NGO Human Rights Watch.

Public libraries, schools, and universities culled their holdings, including archives, to comply with the NSL; it was unclear if this was based on a request from SAR officials or if the institutions chose to self-censor. For example, in June media reported that several high schools removed books from their libraries after the Hong Kong Education Bureau requested school authorities to review books that might violate the NSL. Hong Kong University required library users to register to

access “politically sensitive” books.

In July local media reported that the annual Hong Kong Book Fair, organized by the government’s trade promotion body, did not allow three independent publishers, who published content about the city’s pro-democracy movement, to participate. The publishers claimed the decision was politically motivated. According to media reports, the book fair did not contain any books touching on sensitive topics, including Hong Kong’s 2019 pro-democracy protests or the 1989 Tiananmen Square massacre.

The law allows SAR authorities to revoke a film’s license if it is “found to be contrary to national security interests.” Those who presented an unlicensed film were liable for up to three years’ imprisonment. In August Hong Kong’s Office for Film, Newspaper, and Article Administration denied public screening permission to a short film containing a brief scene showing a protest during Hong Kong’s 2014 Umbrella Movement.

On September 10, a court sentenced five leaders of the defunct Speech Therapists’ Union to 19 months’ imprisonment for conspiring to publish and distribute seditious publications in connection with a series of children’s cartoon books that referred to the 2019-20 protest movement. Prosecutors claimed that the books were an attempt to “infiltrate [children with] seditious ideology,” to promote separatism by portraying the PRC as a “brutal dictator,” and to “use violence” against authorities. SAR officials earlier accused the books of “inciting hatred” and “poisoning” children’s minds against the PRC and SAR governments.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, but SAR authorities did not respect those rights, especially for individuals and organizations associated with the pro-democracy movement. The government repeatedly cited

COVID-19 pandemic health concerns as reasons for restricting public gatherings, although it made exceptions for events involving government officials and pro-Beijing groups.

Freedom of Peaceful Assembly

While the law provides for freedom of peaceful assembly, the government effectively banned peaceful assembly for political purposes, citing public health concerns. In April the government, however, exempted chief executive hopefuls and candidates from strict social distancing rules, allowing them to meet Election Committee members during the two-week nomination period. Police did not issue any “letters of no objection” for public demonstrations for groups not aligned with the PRC and SAR governments after the start of the COVID-19 pandemic. As of October, no NGO applied to hold a public protest, according to media reports. According to Amnesty International, as of May, it was virtually impossible for individuals or groups critical of the government even to attempt to organize a peaceful public assembly without facing a risk of prosecution.

In January activist Chow Hang-tung, former vice-chair of the dissolved Hong Kong Alliance in Support of Patriotic Democratic Movements of China, was sentenced to 15 months in prison for inciting others to commemorate the June 4 anniversary of the 1989 Tiananmen Square massacre in 2021. In December an appeals court overturned Chow’s conviction, ruling that police erred in prohibiting the June 4 assembly without considering permitting it while imposing conditions to protect public health.

In June police arrested at least six individuals on the anniversary of the massacre in what media described as an effort to thwart attempts to commemorate the event. For the first time in 33 years, Hong Kong Catholic churches did not hold memorial masses on June 4 for the victims of the 1989 massacre, out of concern the masses would be deemed a violation of the NSL.

Also in June the chairwoman of the League of Social Democrats, a pro-democracy opposition party, told media that police warned at least six league members not to hold any protest activities on July 1, the 25th anniversary of Hong Kong's handover to the PRC. The league subsequently announced it would not hold any protests on July 1.

Freedom of Association

The law provides for freedom of association, but the government did not respect the law. Authorities investigated and forced the closure of any group they deemed a “national security” concern. A June Amnesty International report stated that since implementation of the NSL, nearly 100 civil society organizations were forced to disband or relocate. SAR officials and pro-Beijing media continued to harass and intimidate NGOs affiliated with the pro-democracy movement, including labor unions and professional associations (see section 7.a.).

By law any person claiming to be an officer of a banned group may be sentenced to a maximum of three years in prison and fined. Those convicted of providing meeting space or other aid to a banned group may also be sentenced to fines and jail time.

Under the NSL, Hong Kong police may require any group that is a “foreign agent” to provide information on its activities, personnel, and finances, with a maximum prison sentence of six months for failure to comply. SAR authorities prosecuted three former leaders of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China for failing to comply with a notice to provide this information. The former leaders argued that the Hong Kong Alliance was not a foreign agent and so had no obligation to comply, while prosecutors argued that authorities did not need to prove that a group was in fact a “foreign agent” in order to request the information. Prosecutors maintained that the alliance was a “foreign agent” because it either gave to or received funds from at least six foreign

organizations and individuals.

In May acting under the NSL, police arrested the five former trustees of the dissolved 612 Humanitarian Fund, which provided financial and legal assistance to individuals arrested or injured during the 2019 pro-democracy protests on suspicion of conspiracy to collude with foreign powers. The five included former lawmakers Margaret Ng and Cyd Ho as well as retired Catholic Bishop of Hong Kong Joseph Cardinal Zen. They and the fund's former secretary were subsequently found guilty and fined approximately 3,900 Hong Kong dollars (\$500) for failing to register the fund as a "society" under the Societies Ordinance, which their lawyers argued was an unconstitutional infringement on their right to association. In December the five filed an appeal against their convictions.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation; the government sometimes confiscated travel documents and enforced travel bans for democracy activists and opposition politicians facing charges. Authorities forced some individuals, including foreign nationals, who were arrested under the NSL but not charged and were on police bail, to surrender their travel documents as a condition for bail.

Foreign Travel: Some media reports indicated that authorities maintain an exit ban "watchlist" of residents who would be intercepted if they attempted to leave the SAR. In May police arrested cultural studies scholar Hui Po-keung at Hong Kong International Airport under suspicion of "collusion with foreign forces," a

crime under the NSL, as Hui was preparing to leave the city.

The government enacted an immigration bill amendment effective in August 2021 that legal scholars, NGOs, and refugee advocates argued empowers authorities to bar anyone, without a court order, from entering or leaving the territory.

The United Kingdom granted those born in Hong Kong prior to 1997 certain British rights but not the right to abode. After the United Kingdom granted these British National (Overseas) passport holders further rights and a path to citizenship, the PRC and SAR announced they would no longer recognize the British National (Overseas) Passport as an identity or travel document.

e. Protection of Refugees

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, or other persons of concern.

Access to Asylum: The law does not provide for granting asylum or refugee status, but the government has established a system for providing limited protection to persons who would be subject to torture or other abuses in their home country.

The government uses the term “nonrefoulement claim” to refer to a claim for protection against deportation. Persons subject to deportation could file a nonrefoulement claim if they either arrived without proper authorization or had overstayed the terms of their admittance. Filing such a claim may result in a period of detention followed by release on recognizance. Activists and refugee rights groups expressed concerns about the quality of adjudications and the very low rate of approved claims, fewer than 1 percent. Denied claimants may appeal

to the Torture Claims Appeal Board. The government did not publish the board's decisions, a practice that the Hong Kong Bar Association previously noted created concerns about the consistency and transparency of decisions. If the board refuses the claimants' appeal, they may file an application for leave to apply for judicial review. On December 7, the SAR implemented an updated removal policy that gives the Immigration Department authority to proceed with removal of nonrefoulement claimants from the SAR upon the Court of First Instance's dismissal of their judicial review applications. Refugees and asylum seekers were required to appear periodically before the Immigration Department, which caused school disruptions to some refugee children.

In 2021, the SAR implemented an ordinance amendment specifically barring persons seeking asylum from entering the territory. The amendment also shortened timeframes for individuals seeking protection against deportation, and in some cases limited these individuals' access to interpretation. It allows immigration officers to carry guns and, in some cases, requires asylum seekers to communicate in a language other than their mother tongue. Activists said the amendment raises concerns about refugees' rights and well-being.

Abuse of Migrants and Refugees: Activists indicated that persons seeking refugee status faced discrimination and were frequent targets of negative commentary by some political parties and media organizations. For example, in February a pro-Beijing lawmaker reportedly told the legislature that the number of refugees in Hong Kong was “a threat to peace and stability” and the city needed to heal this “cancer.” Activists noticed that immigration detention became a more common practice, especially before deportation for those whose asylum claims were rejected. Some activists reported that the departure of some pro-refugee activists or human rights lawyers from the territory reduced legal support for asylum seekers.

Employment: “Nonrefoulement claimants” have no right to work while their claims are under review, and they must rely on social welfare stipends and charities. An NGO reported that this made some claimants vulnerable to trafficking. The government commonly, albeit on a case-by-case basis, granted permission to work for those granted nonrefoulement protection and persons awaiting UNHCR resettlement.

Access to Basic Services: Sources said refugees had a difficult time accessing medical assistance, securing health protection products such as face masks and hand sanitizers, or understanding COVID-19 related information due to language barriers. When schools in Hong Kong moved to online teaching as part of COVID-19 prevention measures, refugee children whose families faced financial constraints did not have access to computers, essential for distance learning.

Temporary Protection: Persons whose claims for “nonrefoulement” are substantiated do not obtain permanent resident status in the SAR. Instead, the SAR government refers them to UNHCR for possible recognition as refugees and resettlement in a third country. In some cases, individuals waited years in the SAR before being resettled.

Section 3. Freedom to Participate in the Political Process

The Basic Law limits the ability of residents to change their government. The National People’s Congress Standing Committee’s 2021 decision to overhaul the SAR’s electoral system further limited this ability, in contradiction to provisions in the Basic Law that describe the election of the chief executive and Legislative Council via universal suffrage as the “ultimate aim.”

Voters did not enjoy universal suffrage in elections for the chief executive or equal suffrage in Legislative Council elections. Under PRC-imposed changes to the electoral system, all candidates for chief executive and Legislative Council are

required to pass through a labyrinthine application process for vetting their “patriotic” bona fides, ensuring that only candidates vetted and approved by Beijing are allowed to hold office at any level. Only members of the Election Committee (EC), a body dominated by pro-Beijing politicians, are entitled to nominate or vote for chief executive candidates.

Under the new electoral system, voters directly elect 20 of the expanded Legislative Council’s 90 seats, or 22 percent, in contrast to the 2016 Legislative Council election, when voters directly elected 40 of the 70 seats (57 percent). Forty seats are selected by the EC directly, while 30 are selected as representatives of “functional constituencies” for various economic and social sectors.

Under the Basic Law, only the SAR government, not members of the legislature, may introduce bills that affect public expenditure, the political structure, or government policy.

The SAR sends 36 deputies to the National People’s Congress and has approximately 200 delegates in the Chinese People’s Political Consultative Conference, bodies that operate under the direction of the Chinese Communist Party and do not exercise legislative independence. The approval of the chief executive, two-thirds of the Legislative Council, and two-thirds of the SAR’s delegates to the legislature are required to place an amendment to the Basic Law on the legislative agenda, which has the sole power to amend the Basic Law.

Elections and Political Participation

Recent Elections: On May 8, John Lee was officially selected as chief executive of Hong Kong, winning 1,416 of the 1,424 valid votes cast by the Beijing-dominated EC. Lee was the only candidate to run in the race, after the PRC central government indicated it would not support any other nominations.

September 2021 elections for seats in the EC, the first after the PRC's March overhaul of the SAR's political system, by design produced a near-unanimous sweep for pro-Beijing "patriots." More than 1,100 of the 1,500 seats in the expanded EC were predetermined and not up for election. For the few competitive seats, regulations limited the franchise and moved the SAR farther from the one-person, one-vote principle. Only one nominally independent candidate was elected to any of those seats. Although the EC was historically considered a "closed circle election," the 2021 contest limited the number of voters eligible to cast ballots to fewer than 5,000 individuals, 97 percent fewer than in the 2016 EC election.

In December 2021 elections for the Legislative Council, pro-Beijing candidates won 89 of the 90 seats; one non-establishment moderate won a seat for the social welfare functional constituency. None of the major pro-democracy parties fielded any candidates. Approximately 1.3 million voters cast ballots in the election, a record low turnout rate of 30.2 percent, compared to the average turnout rate of 51 percent in the six Legislative Council elections since the handover. Approximately 2 percent of ballots cast were blank or otherwise invalid, a record high.

Political Parties and Political Participation: Since the imposition of the NSL, numerous leaders of pro-democracy political parties, protest organizing groups, and civil society organizations were arrested for their involvement in nonviolent political activities. For example, 47 pro-democracy politicians and activists, including former members of the Legislative Council and elected local District Council members, faced charges for conspiracy to commit subversion under the NSL for their involvement in the July 2020 unofficial pan-democratic primary election. No political party was subjected to an outright ban over the past year, but many pro-democracy political parties and organizations have disbanded since the imposition of the NSL because of pressure from SAR authorities or concern they or their members would be subjected to political repression. In July Beijing-controlled newspapers and pro-Beijing politicians repeatedly threatened the

opposition Democratic Party with closure if it did not revise its policies and accused it of “foreign collusion.”

Participation of Women and Members of Minority Groups: No law limits participation of women or members of minority groups in the political process, and they did participate. Women account for 21 percent of the Hong Kong Executive Council, including the convenor. In December 2021 elections to the Legislative Council, 17 women were elected (approximately 19 percent). There is no legal restriction against members of historically marginalized or ethnic minority groups running for electoral office or serving as electoral monitors. There were, however, no members of ethnic minority groups in the Legislative Council, and members of such groups reported they considered themselves unrepresented.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively.

Corruption: On October 6, the Independent Commission Against Corruption, the SAR’s anticorruption watchdog, charged one serving and seven retired government officials with misconduct in public office by showing preferential treatments to certain candidates during a recruitment drive and failing to follow the civil servants appointment policy.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups reported increasing

government scrutiny, harassment, and restrictions. Authorities used the NSL to force organizations expressing criticism of the PRC to cease operations, to self-censor, or to change operational procedures to protect their staff. The forced disbandment of multiple trade unions and other organizations created a chilling effect on remaining groups that were historically critical of the central government.

PRC and SAR officials repeatedly accused local and international NGOs that alleged human rights abuses in the SAR of “sowing discord.”

In July Hong Kong Constitutional and Mainland Affairs Secretary Erick Tsang refused to give assurances to a meeting of the UN Human Rights Committee that civil society organizations that participate in the committee’s review of Hong Kong’s obligations under the International Covenant on Civil and Political Rights would not be in danger of prosecution under the NSL.

Government Human Rights Bodies: There is an Office of the Ombudsman and an Equal Opportunities Commission. The government recruits commissioners to represent both offices through a professional search committee, which solicits applications and vets candidates. Commissioners were independent. Both organizations operated without interference from the SAR government and published critical findings in their areas of responsibility. NGOs stated that the Equal Opportunities Commission had a narrow mandate that did not allow for deep investigations, and limited support from the SAR government.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape against women, including spousal rape, but does not explicitly criminalize rape against men. Support organizations for survivors of sexual and domestic violence such as Hong

Kong Federation of Women's Centers reported a sharp rise in domestic violence cases based on the larger volume of calls to their hotlines since the start of the pandemic and continuing during the year, with women and children making up most of the survivors. According to a 2021-22 report by Harmony House, a one-stop anti-domestic violence service agency in Hong Kong, the agency accommodated a total of 286 women and children affected by domestic violence in 2021, a decrease of 35 percent in from 2020. Its Woman Hotline received 8,500 calls in 2021; more than 60 percent of those calls were related to domestic violence.

Activists expressed concern that rape was underreported, especially within ethnic minority communities.

The law does not directly criminalize domestic violence, but the government regarded domestic violence against women as a serious concern. Abusers may be liable for criminal charges under laws on offenses against the person, sexual assault, and child mistreatment, depending on which act constituted domestic violence. The government effectively prosecuted violators under existing criminal violations. The law allows survivors to seek a three-month injunction, extendable to six months, against an abuser. The ordinance covers abuse between spouses, heterosexual and homosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects victims younger than 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against abuse by parents, siblings, and specified immediate and extended family members. The law also empowers courts to require that an abuser attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an arrest warrant to an existing injunction and extend the validity of both injunctions and arrest warrants to two years.

The government maintained programs that provide intervention, counseling, and

assistance to domestic violence survivors and abusers.

Sexual Harassment: The law prohibits sexual harassment or discrimination based on sex, marital status, and pregnancy. The law applies to both men and women, and police generally enforced it effectively. There were multiple reports, however, of sexual harassment in housing, the workplace, and universities. In March the Hong Kong Women's Coalition of Equal Opportunities released a survey indicating that 40 percent of respondents had experienced some form of sexual violence, including discussion of sexual topics that caused discomfort and non-penetrative sexual assault, as well as unwanted sexual attention. The report attributed the increase in sexual violence and harassment to the pandemic.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The government provides access to sexual and reproductive health services, including emergency contraception, for survivors of sexual violence.

Discrimination: The territory implemented policies to safeguard the rights and interests of women, including antidiscrimination laws. There were debates, however, about whether the current framework provides adequate protection for women. Women enjoy the same legal status and rights as men. The law prohibits discrimination based on sex or pregnancy status and authorizes the Equal Opportunities Commission to work towards the elimination of discrimination and harassment as well as to promote equal opportunity for men and women. Although the government generally enforced relevant law, women reportedly faced discrimination in employment, salary, welfare, inheritance, and promotion. The Equal Opportunity Commission handled 418 complaints in 2020 and 2021. The majority (81 percent) related to employment, with most of those in turn matters of pregnancy discrimination (125 cases) and sexual harassment (151 cases). While the law protects both men and women, women filed most sexual harassment

complaints.

Systemic Racial or Ethnic Violence and Discrimination

Although ethnic Chinese account for most of the population, the SAR is a multiethnic society, with persons from multiple ethnic groups recognized as permanent residents with full rights by law. The law prohibits discrimination, and the Equal Opportunity Commission oversees implementation and enforcement of the law. The commission maintained a hotline for inquiries and complaints concerning racial discrimination. Although the government took steps to reduce it, there were frequent reports of discrimination against ethnic minorities; the law does not clearly cover racial discrimination occurring during law enforcement activity.

Observers concurred that discrimination against ethnic minorities happened in many settings including in schools, homes, hospitals, and banks, in public transportation, in retail and personal services, and in catering services, among others. The most common types of discrimination were mistreatment or refusal of services.

Persons born in mainland China also experienced frequent discrimination.

Children

Birth Registration: All Chinese nationals born in the SAR, on the mainland, or abroad to parents, of whom at least one is a Chinese national and Hong Kong permanent resident, acquire both Chinese citizenship and Hong Kong permanent residence. Children born in the SAR to noncitizen parents, at least one of whom is a Hong Kong permanent resident, acquire SAR permanent residence and qualify to apply for naturalization as Chinese citizens. Authorities routinely registered all such statuses.

Child Abuse: The law mandates protection for survivors of child abuse (battery, assault, neglect, abandonment, and sexual exploitation), and the government enforced the law. In March a local charity accused the government of child abuse after its report revealed that up to 2,000 children with COVID-19 and younger than the age of 10 were separated from their parents from February to March during isolation and treatment. In April the government changed its policy to allow parents of COVID-positive children to accompany them in pediatric wards, regardless of their own COVID-19 status.

In May the department reported that its Child Protection Registry had processed 1,367 registered cases in 2021, a 45 percent increase from the 940 cases in 2020. More than 40 percent of the cases involved physical harm or abuse; 32.8 percent, sexual abuse; and 20.1 percent, negligence.

Between June and August, three former workers at a foster home were sentenced to between four and seven months in jail for child abuse. They were among 34 former workers at Children's Residential Home, a facility run by Society for the Protection of Children, charged with child abuse.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 16 for both girls and boys; however, parents' written consent is required for marriage before age 21.

Sexual Exploitation of Children: The age of consent is 16. By law, a person having "unlawful sexual intercourse" with a person younger than 16 is subject to five years' imprisonment, while unlawful sexual intercourse with a person younger than 13 carries a sentence of life imprisonment. The law allows for the prosecution of certain sexual offenses, including those against minors, committed outside the territory of the SAR. The law prohibits the commercial sexual exploitation of children and procuring children for commercial sex. The law makes it an offense to possess, produce, copy, import, or export pornography involving a child or to

publish or cause to be published any advertisement that conveys, or is likely to be understood as conveying, the message that a person has published, publishes, or intends to publish any child pornography. Authorities enforced the law. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment. On August 11, three Hong Kong policemen were charged with sexual offenses involving a girl, age 15; two were also accused of creating child pornography.

Antisemitism

The active Jewish community numbered approximately 2,500 persons. There were no reports of antisemitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No laws criminalize consensual same-sex sexual conduct between adults. Seemingly neutral laws were not disproportionately applied against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons.

Violence against LGBTQI+ Persons: Reports of violence against LGBTQI+ individuals were rare, and civil society organizations generally assessed the police response as adequate.

Discrimination: While SAR laws ban discrimination on the grounds of race, sex, disability, and family status, no law prohibits companies or individuals from discriminating on grounds of sexual orientation, gender identity, and expression, or sex characteristics. Opposition to LGBTQI+ equality was deeply entrenched among certain cultural conservatives and those who believed LGBTQI+ equality is a western value. An August 24 ruling by a court of appeals confirmed the right for marriage does not extend to same-sex couples.

Availability of Legal Gender Recognition: Legal gender recognition is available for persons older than 18; however, the individual must provide proof of both a psychiatric evaluation and gender affirming surgery.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Persons: So-called conversion therapy practices are not legally prohibited in Hong Kong. According to a 2021 study by LGBTQI+ NGO The Society of True Light, approximately 20 percent of Hong Kong gays and lesbians attempted to change their sexual orientations by various means, including conversion therapy, and were encouraged to do so by mental health practitioners. Medically unnecessary and irreversible “gender normalization” surgeries are performed on intersex children.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: There were no reports of such restrictions for LGBTQI+ individuals or groups.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government generally enforced these provisions. The government took action to investigate and punish those responsible for violence or abuses against persons with disabilities. The government generally implemented laws and programs to provide persons with

disabilities access to education, employment, the judicial system, and health services. The government implemented laws and programs to provide persons with disabilities access to transportation, information, communications, and buildings, although there were reports of some restrictions. The law calls for improved building access and provides for sanctions against those who discriminate; compliance was limited.

Some human rights activists observed that services for persons with disabilities were often unavailable and declared policies were not implemented or that the law was too limited, and its implementation did not promote equal opportunity. For example, while the law requires new construction or major renovations of government and large public buildings to include access for persons with disabilities, enforcement was sporadic, particularly in restaurants, shopping malls, pharmacies, and grocery stores. According to a December 2021 government survey, more than a fifth of all respondents with physical disabilities said they faced a lot of difficulty in day-to-day living and a substantial number of the remainder said they faced some difficulty.

The law states that children with special educational needs must have equal opportunity in accessing education. According to the government, more than 90 percent of students with special needs attended mainstream schools, and the balance, those with severe disabilities, attended special schools.

The Social Welfare Department provided training and vocational rehabilitation services to assist persons with disabilities, offered subsidized resident-care services for persons deemed unable to live independently, offered preschool services to children with disabilities, and provided community support services for persons with mental disabilities, their families, and other residents interested in improving their mental health.

Unemployment among adults with disabilities, in part due to discrimination and

insufficient government support, remained a serious problem. Welfare groups stated that the official unemployment rate for Hong Kong's disabled population (usually approximately 6 percent) did not reflect reality and claimed the actual unemployment rate was more than 40 percent.

The government responded to reports of violence against or abuse of persons with disabilities, including of domestic violence or abuse. A committee composed of NGOs and government departments handled cases of domestic abuse of women and children with disabilities. In 2021, the committee handled more than 7,000 individual cases and set up a shelter center for children and women with disabilities, including survivors of domestic violence.

NGOs reported they continued to face challenges applying for international funding and offering training for disability-related programs, partly due to the foreign collusion provision under the NSL.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join unions, but SAR and PRC authorities took repeated actions that violated the principle of union independence. The law does not protect the right to collective bargaining or obligate employers to bargain. The law prohibits civil servants from bargaining collectively.

The law prohibits firing an employee for participating in a strike and voids any section of an employment contract that punishes a worker for striking. The commissioner of police has broad authority to control and direct public gatherings, including strikes, in the interest of national security or public safety.

By law an employer may not fire, penalize, or discriminate against an employee who exercises his or her union rights and may not prevent or deter the employee from exercising such rights. Penalties for violations of laws protecting union and related worker rights include fines as well as legal damages paid to workers. Penalties were commensurate with those under other laws involving the denial of civil rights. The law was not effectively enforced. Penalties were sometimes applied against violators.

The government used provisions of the NSL, the Societies Ordinance, and the Trade Union Ordinance to repress independent unions and their confederations. A January statement by the International Trade Unions Confederation described the authorities' actions as "retrospectively criminalizing people for legitimate trade union activity to create an atmosphere of fear and intimidation for all civil society groups."

In March Hong Kong police questioned four former officials of the dissolved Hong Kong Confederation of Trade Unions and searched the confederation's former premises. According to media reports, the four individuals failed to comply with a police order under the Societies Ordinance to provide information on the trade union confederation's activities, operations, and finances.

Also in March the Beijing-controlled newspaper *Ta Kung Pao* attacked the Hong Kong Nurses Association and the Hong Kong Professional Doctors Association after the two groups raised concerns about language and professional competency of medical staff sent from mainland China to fight the most severe COVID-19 outbreak in Hong Kong. As of June, according to Amnesty International, the government's Registrar of Trade Unions reportedly conducted investigations into at least four labor unions and professional associations, including the Hong Kong Journalists Association (see section 2), as to whether their activities were in line with the Trade Unions Ordinance and the unions' constitutions.

Pressure from SAR officials and from PRC-supported media outlets led many unions to disband. In May an education foundation formerly affiliated with the Confederation of Trade Unions announced it would disband, citing “political risk.” In June the Hospital Authority Employees Alliance, one of the groups under investigation, announced it would disband, stating that it faced “political oppression.”

b. Prohibition of Forced or Compulsory Labor

The law does not prohibit all forms of forced or compulsory labor, nor do laws specifically criminalize forced labor. Instead, the government uses the Employment and Theft Ordinances to prosecute forced labor and related offenses. The government generally enforced these laws. Because these violations are typically civil offenses with fines, penalties for these offenses were not commensurate with those for analogous serious crimes, such as kidnapping, which violate the Crimes Ordinance and carry prison terms.

NGOs expressed concern that some migrant workers, especially domestic workers in private homes, faced high levels of indebtedness assumed as part of the recruitment process, creating a risk they could be subjected to forced labor through debt-based coercion. Domestic workers were mostly women and mainly came from the Philippines, Indonesia, and other Southeast and South Asian countries. The law allows for the collection of maximum placement fees of 10 percent of the first month’s wages, but some recruitment firms required large up-front fees in the country of origin that workers struggled to repay. Some locally licensed employment agencies were suspected of colluding with local money lenders and agencies overseas to profit from debt schemes, and some local agencies illegally withheld the passports and employment contracts of domestic workers until they repaid the debt.

Authorities stated they encouraged aggrieved workers to file complaints and make

use of government conciliation services, and that they actively pursued reports of any labor violations. NGOs expressed concern that migrant and foreign domestic workers faced certain barriers to accessing justice, including the Sunday closure of government complaint services, the statutory day off for most domestic workers. The number of complaints made by domestic workers was disproportionately low when compared with the research evidence of the problems they faced. In addition, the number of investigations and convictions of employment agencies was low when compared with research evidence documenting the prevalence of illegal practices. Even when found guilty of breaches of the law, the penalties faced by convicted agencies were not significant enough to act as a deterrent.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. Regulations prohibit employment of children younger than 15 in any industrial establishment. Children younger than 13 are prohibited from taking up employment in all economic sectors. Children who are 13 or older may be employed in nonindustrial establishments, subject to certain requirements, such as parental written consent and proof the child completed required schooling.

The Labor Department effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. Penalties for child labor law violations, generally a civil offense, included fines and legal damages and were not commensurate with those for analogous serious criminal offenses, such as kidnapping. Penalties were regularly applied against violators.

There were no confirmed reports during the year of the worst forms of child labor.

d. Discrimination with Respect to Employment and Occupation

The law and regulations prohibit employment discrimination based on race or ethnicity, disability, family status (marital status or pregnancy), or sex. The law stipulates employers must prove that proficiency in a particular language is a justifiable job requirement if they reject a candidate on those grounds. Regulations do not prohibit employment discrimination on the grounds of age, color, religion, political opinion, national origin or citizenship, sexual orientation or gender identity, HIV or other communicable disease status, or social status. The law authorizes the Equal Opportunities Commission to work towards the elimination of discrimination and harassment as well as to promote equal opportunity for men and women.

The government generally enforced these laws and regulations. In cases in which employment discrimination occurred, courts had broad powers to levy penalties on those violating these laws and regulations. Although the government generally enforced these laws, women reportedly faced some discrimination in employment, salary, and promotion opportunities. According to official statistics, the median monthly income for women in 2021 was on average 75 percent of that of men. An Equal Opportunity Commission report, also from 2021, indicated that women earned 15 percent less than their male counterparts. The proportion of women working as managers, administrators, professionals, and associate professionals stood at 35.5 percent in 2020, lower than the 47.5 percent for men.

There were reports that foreign domestic workers faced discrimination during the February COVID-19 wave. Media reported some foreign domestic workers who contracted COVID-19 were fired and forced to leave their employers' homes. Others were denied access to medical care or forced to work extremely long hours with no additional pay. In addition, foreign domestic workers faced discrimination based on disability (health) and family status (pregnancy). Foreign domestic

workers faced significant barriers to justice as employers were able to claim that the termination was due to other issues, such as poor performance at work. Unemployment among adults with disabilities was high, in part due to discrimination and insufficient government support (see section 6, Persons with Disabilities). Human rights activists and local scholars continued to raise concerns about job prospects for minority students, who were more likely to hold low-paying, low-skilled jobs and earn below-average wages.

e. Acceptable Conditions of Work

Wage and Hour Laws: The statutory minimum wage was below the poverty line for an average-sized household. The law does not regulate working hours, paid weekly rest, rest breaks, or compulsory overtime for most employees. Several labor groups reported that employers expected employees to work extremely long hours and called for legislation to address that concern. Foreign domestic workers are excluded from the statutory minimum wage and often faced extremely long working hours (12 to 16 hours a day). They were often expected to be on call 24 hours a day, a condition exacerbated by the compulsory live-in requirement.

Occupational Safety and Health: The law includes occupational safety and health (OSH) standards for various industries. The law provides for standards that are appropriate for the main industries in the economy. The law makes enterprise and dispatching agencies responsible for occupational injuries to temporary workers. OSH laws allow workers to remove themselves from situations that endanger health or safety without jeopardy to their employment. Employers are required to report any injuries sustained by their employees in work-related accidents.

The Occupational Safety and Health Branch of the Labor Department is responsible for promoting safety and health promotion, identifying unsafe conditions, enforcing safety management legislation, and formulating and

implementing policy generally. Inspectors may make unannounced inspections and initiate investigations and prosecutions. For the first half of the year, the Labor Department reported occupational accidents increased 1 percent over the same period in 2021.

Wage, Hour, and OSH Enforcement: The Labor Department is responsible for enforcing wage and working hour laws as well as OSH standards in conjunction with the labor agencies of local authorities. The government effectively enforced the law; the number of labor inspectors was sufficient to enforce compliance. Labor inspectors have the authority to conduct unannounced inspections and initiate sanctions. Penalties for violations of wage laws or OSH standards include fines, damages, and workers' compensation payments. These penalties were commensurate with those for similar offenses. Penalties were regularly applied against violators. The Labor Tribunal adjudicated disputes involving nonpayment or underpayment of wages and wrongful dismissal. The Labor Tribunal presented several barriers to domestic workers, such as prolonged court cases and high court fees, which discouraged them from seeking justice. Interpretation services for foreign domestic workers were limited.