

Freedom House Submission to the Human Rights Committee (CCPR) for its review at its 135th Session of the Fourth Periodic Report by the Government of Hong Kong on its implementation of the International Covenant on Civil and Political Rights

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Executive Summary

1. Since the last CCPR review of Hong Kong, the Chinese and Hong Kong governments have enacted legislation and taken measures to dramatically reduce press freedom and internet freedom in the territory and violate the rights guaranteed by the Basic Law, Bill of Rights Ordinance, and International Covenant on Civil and Political Rights. The Hong Kong government has used criminal penalties against journalists to muzzle critical coverage of police misconduct, government policies, or commentary articles published by the outlets. Internet censorship is on the rise and Hong Kongers have faced arrest for their online speech. The introduction of the 2020 National Security Law (NSL) ushered in a crackdown on the press in Hong Kong on the basis that independent media is perceived to be a threat to national security.
2. The crackdown and closure of the *Apple Daily* newspaper and Stand News digital outlet in 2021 are emblematic of how National Security Law (NSL) and sedition offences are being used to stifle press freedom. It illustrates the retroactive nature of the crackdown, as outlets are being punished as much for the content they published before the NSL as after. Over a dozen journalists are currently in jail awaiting trial for publishing articles, and some face life in prison. Many have been denied bail and other due process rights. At least six Chinese-language news sites are known to have voluntarily shut down in 2021, and self-censorship has increased. Several administrative changes brought in by Hong Kong government bodies have infringed on press freedom by preventing journalists from accessing public records and restricting the public’s right to know. As a result of the government’s editorial

takeover of the public broadcaster Radio Television Hong Kong (RTHK) in 2021, and direct ownership of two private media outlets, the State interferes and controls the editorial work of media organizations. An estimated 20 percent of the total number of Hong Kong's Chinese-language media workers have lost their jobs as a result of the national security crackdown on the press.

3. Hong Kong had traditionally enjoyed a free and open internet before the introduction of the NSL but internet censorship has become increasingly common. Under Article 43 of the NSL and the implementing measures enacted by the Hong Kong government, police are empowered to censor the Internet. Those who do not comply with these provisions, including the employees of technology companies, could face fines or even prison sentences. To date, eight websites have been blocked in Hong Kong. Most content that has been removed was taken down by the media outlet itself after it shut down while under police investigation, erasing decades of independent reporting and commentary not only for users in Hong Kong but globally. Hong Kongers are increasingly at risk of reprisals for online activity and several laws have been amended to criminalize online activity. Cyberattacks linked to the Chinese state are increasingly common on prodemocracy activists, as well as on media outlets and Hong Kongers or people globally visiting such sites.

Recommendation to the Chinese and Hong Kong governments:

- Repeal the National Security Law, which is fundamentally incompatible with international law and China and Hong Kong's human rights obligations, including under the Covenant;
- Amend or repeal the Crimes Ordinance (Cap. 200) provision of "sedition" to bring it into full conformity with the Covenant;
- Halt all plans to introduce new legislation to further restrict freedom of the press, such as a "fake news" law or Article 23 legislation, and amend new legislation which criminalizes free expression online, penalizes employees of technology companies, or permits the blocking of websites or messaging platforms to ensure they comply with Hong Kong's international human rights obligations;
- End all criminal arrests and release immediately and unconditionally journalists detained for their work in the media profession or for exercising their rights, as well as all Hong Kongers detained for exercising their free expression rights on and offline;
- Lift administrative measures which restrict the ability of media outlets to self-regulate the accreditation of journalists, ensure "public interest" exemptions exist for assessing restricted access to public records, and establish a fully independent mechanism mandated to conduct independent, proper and effective investigations into complaints about the inappropriate use of force or other abuse of power by the police;
- Restore the editorial independence of Radio Television Hong Kong (RTHK);
- End online censorship and halt police directives to internet service providers to block websites in Hong Kong and restore access to websites previously blocked.

Thematic issues and findings: Freedom of expression (arts. 19 and 20)

A. Press Freedom

1. Criminal prosecution of the press including with national security laws

4. The government's March 2021 response to the Committee's List of Issues that "The HKSARG is firmly committed to protecting and respecting the freedom of the press, which is a fundamental right

guaranteed by the Basic Law” does not reflect the reality on the ground.¹ Since the last CCPR review of Hong Kong, the Chinese and Hong Kong governments have enacted legislation and taken measures to systematically restrict press freedom in the territory and violate the rights guaranteed by the Basic Law, Bill of Rights Ordinance, and International Covenant on Civil and Political Rights, with impunity. The Hong Kong government has used criminal penalties against journalists to muzzle critical coverage of police misconduct, government policies, or commentary articles published by the outlets. Journalists, editors, and media owners have faced charges ranging from obstructing police, resisting arrest, or making false statements for accessing public information, to “conspiracy to publish seditious materials” or “colluding with foreign forces” for activities that fall within the range of professional journalistic activity. At the time of writing, criminal cases involving the application of NSL crimes against journalists have not yet come to trial, though many languish in pre-trial detention without bail.

5. The crackdown on the press stems in part from the 2019 protests, during which journalists from a range of publications as well as student journalists and freelancers, reported critically on police misconduct and the government response to protesters. Numerous incidents of police brutality were documented by journalists and shared around the world. The level of press scrutiny on the protests was widespread, especially in comparison to the media freedom in mainland China, and was an example of the relative openness of Hong Kong’s system. That system is now being dismantled.
6. In particular, the introduction of the 2020 National Security Law (NSL) ushered in an unprecedented crackdown on the press in Hong Kong on the basis that officials perceive independent media to be endangering national security. New criminal offences created under the NSL used against the media carry potential life sentences. Several UN special rapporteurs have raised the NSL’s “fundamental incompatibility with international law and with China’s human rights obligations.”²
7. The Hong Kong government began to regularly arrest journalists, writers, and human rights defenders for sedition offences in September 2020, when Hong Kong police arrested an individual on charges of “sedition” for the first time since the 1997 handover.³ The State has ignored the Committee’s recommendation in its 2013 Concluding Observations that the definition of “sedition” was too broad and should be amended to be in full conformity with the Covenant.⁴ The use of colonial-era sedition offences, first introduced in 1938, is likely being deployed to target journalists and commentators for writings that were not illegal at the time of publication but are now prohibited under the NSL. Under the Crimes Ordinance (Cap. 200), sedition is punishable by up to two years in prison.
8. In cases where journalists have been arrested under the NSL or for sedition, they have often been held in custody without bail under a new standard against the presumption of bail created by Article 42 of the NSL. Hong Kong court rulings in 2021 created a precedent that any case that “involved behavior endangering national security” would be subject to the strict NSL bail conditions, which denies bail “unless the judge has sufficient grounds for believing that the criminal suspect or defendant will not

¹ Para. 122, CCPR/C/CHN-HKG/RQ/4, March 2021.

² OHCHR, “Hong Kong: Arrests under security law are serious concern, UN experts call for review,” October 12, 2021, <https://www.ohchr.org/en/press-releases/2021/11/hong-kong-arrests-under-security-law-are-serious-concern-un-experts-call>; CHN 3/2022; CHN 13/2020; CHN 17/2020.

³ 1st charged with sedition under Chinese rule <https://www.aljazeera.com/news/2020/9/8/hong-kong-activist-charged-under-colonial-era-sedition-law> second <https://english.alarabiya.net/News/world/2021/02/08/Hong-Kong-radio-host-charged-with-four-counts-of-seditious-intent-78416228> 3rd right after Apple Daily <https://abcnews.go.com/International/wireStory/hong-kong-police-arrest-man-sedition-protest-flag-78416228> shortly after 5 speech therapists <https://apnews.com/article/business-arrests-hong-kong-global-trade-a07a17e4efc96c7c4b3f92a01780f62d>

⁴ Para. 14, “Concluding Observations,” April 29, 2013, CCPR/C/CHN-HKG/CO/3

continue to commit acts endangering national security.”⁵ There are reports of political prisoners being subject to mistreatment in custody⁶ and elderly media professionals, like 73-year-old Jimmy Lai, are held in custody without bail.

9. Other existing due process rights for journalists in Hong Kong have been overridden by the NSL. In April 2021 the Hong Kong Justice Department ruled that national security investigations could conduct searches of journalistic material without court approval, overriding pre-existing legislative oversight rules,⁷ on the basis that such legislation did not extend to the Beijing-imposed NSL.⁸
10. The crackdown and closure of the *Apple Daily* newspaper and Stand News digital outlet in July and December 2021, respectively, are emblematic of how NSL and sedition offences are being used to stifle press freedom. The loss of these two independent media outlets that had routinely published content critical of the government demonstrates how widely the NSL is being felt in Hong Kong, as millions of readers lose access to opposition media. The loss of *Apple Daily* and Stand News also reinforces the retroactive nature of the national security crackdown in Hong Kong, as outlets are being punished as much for the content they published before the NSL as after.

1.1 Case of *Apple Daily*

11. *Apple Daily* founded in 1995 and with a strong prodemocracy editorial line, was one of Hong Kong’s largest newspapers. A little over a month after the passage of the NSL, *Apple Daily*’s owner Jimmy Lai was arrested by police; one of the first people from the media sector targeted. Police arrested Lai on suspicion of “colluding with foreign powers” and raided the newspaper’s office on August 10, 2020.⁹ At the heart of the NSL charges against Lai are public calls, including in media interviews and from his Twitter account, for foreign governments to impose sanctions on Hong Kong and Chinese officials responsible for violating rights and freedoms in Hong Kong—actions the US government has taken.¹⁰ Lai was denied bail in a landmark ruling from the Court of Final Appeal.¹¹ After his arrest, a network of 40 convenience stores owned by a company with strong business ties to mainland China announced that it would stop selling *Apple Daily*, demonstrating the economic pressure on prodemocracy and opposition media.¹² Then in May 2021, police froze Lai’s HK\$500 million (US\$64

⁵ Court Of Final Appeal Of The Hong Kong Special Administrative Region, “HKSAR and Ng Hau Yi Sidney Miscellaneous Proceedings No. 32 Of 2021 (Criminal),” December 14, 2021, https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=140898&currpage=T; Court Of Final Appeal Of The Hong Kong Special Administrative Region, “HKSAR And Lai Chee Ying Final Appeal No. 1 Of 2021”, February 9, 2021, https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=133491&currpage=T.

⁶ <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed/>; <https://www.reuters.com/article/us-hongkong-security-detention/young-hong-kong-democracy-protester-says-he-was-beaten-by-prison-guards-idUSKBN25O02X>

⁷ Part XII: Search and Seizure of Journalistic Material, Interpretation and General Clauses Ordinance (Cap. 1), 1966, https://www.elegislation.gov.hk/hk/cap1?xid=ID_1438402519271_001

⁸ *Apple Daily*, “Hong Kong national security police can seize journalistic files without court approval: prosecutors,” April 2, 2021 <https://archive.is/sSS78>

⁹ Committee to Protect Journalists, “Hong Kong police arrest Apple Daily founder Jimmy Lai under new National Security Law,” August 9, 2020 <https://cpj.org/2020/08/hong-kong-police-arrest-apple-daily-founder-jimmy-lai-under-new-national-security-law/>

¹⁰ Selina Cheng, “Pro-democracy media tycoon Jimmy Lai to face new charges under Hong Kong security law,” Hong Kong Free Press, December 11, 2020 <https://hongkongfp.com/2020/12/11/breaking-pro-democracy-media-tycoon-jimmy-lai-to-face-new-charges-under-hong-kong-security-law/>; “Jimmy Lai appears in Hong Kong court in metal chain,” Al Jazeera, December 12, 2020 <https://www.aljazeera.com/news/2020/12/12/hong-kongs-jimmy-lai-in-court-to-face-national-security-charges>

¹¹ Freedom House, “China Media Bulletin 151 - February 2021,” <https://freedomhouse.org/report/china-media-bulletin/2021/chinas-information-isolation-new-censorship-rules-transnational#A5>.

¹² “China Resources’ convenience stores stop selling Apple Daily,” Deutsche Welle, August 28, 2020 <https://www.dw.com/zh/%E5%8D%8E%E6%B6%A6%E6%97%97%E4%B8%8B%E4%BE%BF%E5%88%A9%E5%BA%97%E5%81%9C%E5%94%AE%E8%8B%B9%E6%9E%9C%E6%97%A5%E6%8A%A5/a-54727745>

million) worth of assets and shares in the paper's parent company and three other companies using powers under the NSL.¹³

12. As *Apple Daily* continued to independently cover news events despite Lai's arrest, authorities turned their sights on the paper itself, leading to its closure. On June 17, 2021, 500 officers from the Hong Kong Police Force raided the *Apple Daily* newsroom, arresting two executives from its publisher Next Media along with three news staffers on NSL charges of "collusion with a foreign country or with external elements to endanger national security" which carries a potential life sentence.¹⁴ Authorities reportedly accused *Apple Daily* of publishing approximately 30 articles since 2019, prior to the NSL's implementation, that called for foreign sanctions to be lodged against Hong Kong and China. Police also arrested on charges of "conspiracy to collude with foreign forces" the paper's lead opinion writer and a former editorial writer at the airport.¹⁵ Police confiscated 38 computers containing journalistic material and froze HK\$18 million (US\$2.3 million) in corporate assets, leaving Next Digital unable to pay staff or receive payments from lenders.¹⁶ As a result of the financial and legal risks, the company closed *Apple Daily*, a sister publication, *Next Magazine*, and on July 1 the publicly traded company ceased operations.¹⁷
13. *Apple Daily* released its final edition on June 24, 2021 and shut down its website, online television channels, and social media accounts, erasing important historical and contemporary information about Hong Kong for local and global audiences. The European Union and leaders of several governments denounced the raid and the use of the NSL to stifle press freedom.¹⁸
14. The criminal prosecution of the newspaper did not end when *Apple Daily* shut down. Six *Apple Daily* journalists and executives, including the paper's editor in chief, could face life in prison after Hong Kong prosecutors moved on September 30, 2021 to have their cases heard at the territory's High Court, which does not have sentencing limits.¹⁹ On December 27, 2021, Hong Kong prosecutors charged seven *Apple Daily* executives and staff including owner Jimmy Lai with "conspiracy to print, publish, sell, distribute seditious publishing."²⁰ This charge was likely laid so as to prosecute the paper for content published prior to the enactment of the NSL.

1.2 The case of Stand News

¹³ Christy Leung, Phila Siu, Tony Cheung and Ji Siqi, "Hong Kong authorities freeze nearly HK\$500 million in assets belonging to media tycoon Jimmy Lai," *South China Morning Post*, May 14, 2021 <https://www.scmp.com/news/hong-kong/law-and-crime/article/3133541/hong-kongs-national-security-police-freeze-nearly>

¹⁴ The arrested individuals are: chief executive officer Cheung Kim-hung, chief operating officer Royston Chow, editor in chief Ryan Law, associate publisher Chan Pui-man, and Apple Daily Digital platform director Cheung Chi-wai <https://www.reuters.com/world/asia-pacific/hong-kongs-apple-daily-newspaper-says-police-arrest-five-directors-2021-06-16/>

¹⁵ Selina Cheng, "Apple Daily opinion writer arrested by Hong Kong national security police," Hong Kong Free Press, June 23, 2021, <https://hongkongfp.com/2021/06/23/breaking-apple-daily-opinion-writer-arrested-by-national-security-police-reports/>; Jeffie Lam and Clifford Lo, "National security law: Apple Daily editorial writer arrested at airport while trying to leave Hong Kong," *South China Morning Post*, June 27, 2021 <https://www.scmp.com/news/hong-kong/politics/article/3138957/national-security-law-hong-kong-online-news-portal-pulls>

¹⁶ <https://en.appledaily.com/letter-to-our-readers-we-will-press-on/XENTLS4QLZF55NV2GAPD7USUXI>

¹⁷ Candice Chau, "Reddit users race to save Hong Kong Apple Daily content as sections begin to close," Hong Kong Free Press, June 23, 2021 <https://hongkongfp.com/2021/06/23/reddit-users-race-to-save-hong-kong-apple-daily-content-as-sections-begin-to-close/>; Lilian Cheng, "Hong Kong parent company of Apple Daily to cease operations on Thursday, will still try to pay staff despite authorities not releasing frozen cash," SCMP, June 30, 2021 <https://www.scmp.com/news/hong-kong/politics/article/3139345/hong-kong-parent-company-apple-daily-cease-operations>

¹⁸ https://www.eeas.europa.eu/eeas/hong-kong-statement-spokesperson-closure-apple-daily%E2%80%99s-hong-kong-operations_en; <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/statement-by-president-joe-biden-on-hong-kongs-apple-daily/>; https://www.europarl.europa.eu/doceo/document/TA-9-2021-0356_EN.html

¹⁹ <https://www.scmp.com/news/hong-kong/law-and-crime/article/3150764/hong-kong-national-security-law-6-former-apple-daily>

²⁰ <https://www.reuters.com/world/asia-pacific/hong-kong-apple-daily-founder-staff-face-new-sedition-charge-2021-12-28/>

15. Online investigative outlet Stand News was founded in 2014 and covered political and social issues with a prodemocracy editorial line. Stand News’s coverage of the 2019 protests was viewed globally, including an incident in July at the Yuen Long train station where journalist Gwyneth Ho livestreamed an attack by gang members on passengers and herself.²¹ Following the police raids on *Apple Daily* in 2021, Stand News removed its online commentary articles and took measures to protect staff.²² However, that did not prevent Hong Kong police from targeting the outlet. On December 28, 2021, police officers arrested seven journalists and executives from Stand News on suspicion of “conspiring to publish seditious material” over its reporting since 2019.²³ Police froze HK\$61 million (US\$7.82 million) of Stand News’ assets and seized computers, phones and journalistic materials. Stand News announced it was shutting down the same day of the police raid and deleted its Twitter account, which had 115,000 followers, and its website, erasing years of content.²⁴ Online users have tried to back up deleted news content.²⁵

1.3 Sedition arrests of journalists

16. Other journalists have been targeted with sedition laws. In February 2021, Hong Kong national security officers arrested radio host Wan Yiu-sing for “committing an act with seditious intent” under the colonial-era Crimes Ordinance over comments that he made on his shows the previous year.²⁶ On March 2, 2022, Hong Kong District Court convicted prodemocracy DJ Tam Tak-chi on seven counts of “uttering seditious words” for chanting “Liberate Hong Kong, Revolution of Our Times,” “Down with the Communist Party,” and other slogans.²⁷ He was sentenced to 40 months in jail and given a fine of HK\$5,000. On April 11, 2022, police arrested former Stand News journalist Allan Au for “conspiracy to publish seditious materials.”²⁸

1.4 Non-national security prosecutions and physical attacks on the press

17. Journalists have faced prosecution on non-NSL charges for investigative reporting. In one example, freelance producer Bao Choy was convicted in April 2021 of making “false statements” and fined HK\$6,000 (US\$770) for accessing a government database while producing a documentary for public broadcaster Radio Television Hong Kong (RTHK) about the July 2019 Yuen Long mob attack.²⁹ The politicized nature of her conviction was reflected when prosecutors dropped the same charges against a journalist from the state-owned *Ta Kung Pao* newspaper.³⁰

²¹ . <https://www.reuters.com/article/us-hongkong-extradition-attack-ugc2/horrifying-moments-as-hong-kong-journalist-live-streams-being-attacked-idUSKCN1UH12M>

²² Selina Cheng, “Security law: Stand News opinion articles axed, directors resign amid reported threats to Hong Kong digital outlets,” Hong Kong Free Press, June 28, 2021 <https://hongkongfp.com/2021/06/28/security-law-stand-news-opinion-articles-axed-directors-resign-amid-reported-threats-to-hong-kong-digital-outlets/>

²³ Those arrested include four former members of the board—Margaret Ng, Denise Ho, Chow Tat-chi, and Christine Fang—and former chief editor Chung Pui-kuen and acting chief editor Patrick Lam. Deputy editor Ronson Chan was arrested and released hours later, and former deputy editor of *Apple Daily* Chan Pui-man was arrested while remanded at Tai Lam Centre for Women, where she has been held in connection with the case against the newspaper; Chan is Chung Pui-kuen’s wife and had written for Stand News. <https://www.nytimes.com/2021/12/29/world/asia/hong-kong-stand-news-arrest.html>

²⁴ https://twitter.com/_datt/status/1476210607124881412?s=20

²⁵ https://www.reddit.com/r/DataHoarder/comments/rr3e33/urgent_hong_kong_stand_news_to_cease_operations/ ; https://www.reddit.com/r/DataHoarder/comments/ruag5i/another_hk_news_org_is_shutting_down_we_need_help/

²⁶ <https://cpj.org/2021/02/hong-kong-police-arrest-internet-radio-host-wan-yiu-sing-on-sedition-charges/>

²⁷ <https://hongkongfp.com/2022/04/20/breaking-hong-kong-democrat-and-dj-jailed-for-40-months-over-11-charges-including-uttering-sedition-words/>

²⁸ <https://cpj.org/2022/04/hong-kong-police-arrest-journalist-allan-au-for-alleged-sedition/>

²⁹ Reporters without Borders, “Hong Kong: investigative journalist Bao Choy convicted of “false statements,” April 23, 2021 <https://rsf.org/en/news/hong-kong-investigative-journalist-bao-choy-convicted-false-statements>

³⁰ Rhoda Kwan, “Charge dropped against Hong Kong state media reporter over improper access to public records, despite RTHK case,” Hong Kong Free Press, June 17, 2021 <https://hongkongfp.com/2021/06/17/charge-dropped-against-hong-kong-state-media-reporter-over-improper-access-to-public-records-despite-rthk-case/>

18. Following a September 2020 announcement from Hong Kong police that the designation of “media representative” would be limited to government-registered and “well-known” international agencies, several journalists were arrested on charges of obstructing police.³¹ In November 2020, in two separate cases, a student journalist from Hong Kong Baptist University (HKBU) Students’ Union Editorial Board was charged with “obstructing police” and “resisting arrest” while covering a protest in May. A journalist from digital outlet Ben Yu Entertainment was arrested for “obstructing police” while filming the arrest of prodemocracy protestors.³²

19. There has also been an increase in physical attacks on journalists and the printing press of the *Epoch Times* newspaper. The newspaper, which was founded by practitioners of the Falun Gong spiritual movement, often covers human rights abuses in China and is critical of the CCP. Between April-May 2021, unidentified men attacked the *Epoch Times* printing press with sledgehammers and assaulted a journalist with a bat outside her home.³³ This was the second attack on the newspaper’s printing press since 2019. In March 2021, another Hong Kong-based *Epoch Times* journalist said she had received threats from mainland police, who detained and questioned her mainland-based family members.³⁴ Falun Gong is banned in mainland China and its believers violently persecuted, but the spiritual discipline has been permitted in Hong Kong. However, the Secretary for Security said in July 2021 that police would investigate whether the spiritual group had violated the NSL.³⁵

2. Self-censorship and closure of other private media outlets

20. Self-censorship has increased in outlets not targeted for criminal prosecution. In October 2021, newspaper *Ming Pao* dropped a legal columnist who had written for the paper for 18 years and another columnist stopped writing for the paper in June 2021 after 15 years due to the “poor political climate.”³⁶ After a journalist from Now News asked a critical question in a March 2022 government press conference, pro-Beijing groups called for her to be fired for “hate speech” and for the police to investigate her under the NSL. As a result, Now News apologized, gave the journalist a warning, and began to require that all journalists run questions by their editors before asking them.³⁷

³¹ HKJA, “Joint-statement: Hong Kong press unions and associations sternly oppose the police’s unilateral revision of its definition of media representatives under the Police General Orders,” September 22, 2020

<https://www.hkja.org.hk/en/statements/joint-statement-hong-kong-press-unions-and-associations-sternly-oppose-the-polices-unilateral-revision-of-its-definition-of-media-representatives-under-the-police-general-orders/>

³² Kelly Ho, “Student journalist charged with obstructing Hong Kong police and resisting arrest during mall demo,” Hong Kong Free Press, November 4, 2020 <https://hongkongfp.com/2020/11/04/student-journalist-charged-with-allegedly-obstructing-hong-kong-police-and-resisting-arrest-during-mall-demo/>; Rhoda Kwan, “Hong Kong police arrest journalist for ‘obstruction’ after she filmed arrests,” Hong Kong Free Press, November 6, 2020 <https://hongkongfp.com/2020/11/06/hong-kong-police-arrest-journalist-for-obstruction-after-she-filmed-arrests/>;

Committee to Protect Journalists, “Hong Kong police charge 2 reporters with obstruction over coverage of May protests,” December 15, 2020, <https://cpj.org/2020/12/hong-kong-police-charge-2-reporters-with-obstruction-over-coverage-of-may-protests/>

³³ Freedom House, “China Media Bulletin 153 - April 2021” <https://freedomhouse.org/report/china-media-bulletin/2021/retooling-censorship-xinjiang-cotton-hong-kong-press-freedom-april#A5>; Freedom House, “China Media Bulletin 154 - May 2021,” <https://freedomhouse.org/report/china-media-bulletin/2021/gutting-hong-kong-broadcaster-apple-concessions-propaganda#A5>

³⁴ Liang Zhen, “Hong Kong: Reporter and Popular Show Presenter Repeatedly Harassed by CCP,” Minghui.org, March 25, 2021 <https://en.minghui.org/html/articles/2021/3/25/191568.html>

³⁵ Rhoda Kwan, “Pro-Beijing lawmakers urge gov’t to outlaw Falun Gong, target of 3,545 police operations in eight years,” Hong Kong Free Press, July 8, 2021 <https://hongkongfp.com/2021/07/08/pro-beijing-lawmakers-urge-govt-to-outlaw-falun-gong-target-of-3545-police-operations-in-eight-years/>

³⁶ <https://hongkongfp.com/2021/10/28/hong-kong-newspaper-ming-pao-drops-hong-kong-democrat-alan-leong-from-legal-column-after-18-years/>; <https://hongkongfp.com/2021/06/24/hong-kong-scholar-quits-writing-newspaper-column-amid-very-poor-political-climate/>

³⁷ <https://www.scmp.com/news/hong-kong/politics/article/3170877/leading-news-outlet-deeply-sorry-over-reporters-question>

21. At least six Chinese-language news sites have been known to voluntarily shut down in 2021, and another two have restricted their operations. Following the December 2021 police raid on Stand News, four other independent Chinese-language digital news outlets announced they were shutting down: Citizen News, Mad Dog Daily, IBHK Internet Media, and Polymer.³⁸ Outlets Hong Kong Independent Media News and Dare Media HK stopped accepting submissions and ended news reporting, respectively.³⁹ Digital news site DB Channel shut down its Hong Kong operations in November 2021 after the cofounder was denied bail in a separate NSL case.⁴⁰ In May 2021, the digital news site Post 852 suspended operations and dismissed all its staff, with the founder acknowledging the outlet's financial struggles but also pointing to an expected "fake news" law as the primary catalyst for the decision.⁴¹

3. Administrative measures blocking access to information and accountability

22. The government's March 2021 response to the Committee's List of Issues that "The Government is also committed to maintaining a facilitative environment for the media to report news and perform its role as a watchdog over public affairs" does not accord with the facts.⁴²

23. Several administrative changes brought in by Hong Kong police and government bodies have infringed on press freedom by preventing journalists from accessing public records, a common tool of investigative reporting. These changes have come despite a recommendation from the Committee in its 2013 Concluding Observations that the government should "implement the right of access to information by public bodies."⁴³ While the government has claimed some of these measures are to protect "privacy," there is no allowance for accessing information for the public interest and the actions appear to target public records previously used to expose official corruption or wrongdoing. Government departments which have brought in restrictions include the Companies Registry, the Land Registry, electoral roll information, birth and marriage record, and vehicle transport records, the same system which journalist Bao Choy used.⁴⁴ Such restrictions harm the public's right to know.

24. The government's failure to create an environment for the media to report the news is also reflected its failure to hold police accountable for violations of journalists' rights. The Hong Kong government has continued to ignore the Committee's 2013 recommendation in its Concluding Observations to "establish a

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<https://www.inmediahk.net/node/%E5%AA%92%E9%AB%94/%E3%80%8A%E7%AB%8B%E5%A0%B4%E3%80%8B%E6%A1%88%E5%BE%8C%E8%87%B3%E5%B0%91%E5%85%AD%E5%AE%B6%E7%B6%B2%E5%AA%92%E5%81%9C%E9%81%8B%E6%88%96%E7%B5%82%E6%AD%A2%E6%96%B0%E8%81%9E%E5%B7%A5%E4%BD%9C>;
<https://globalvoices.org/2022/01/03/independent-hong-kong-news-outlet-citizen-news-announces-shut-down/> ;
<https://www.scmp.com/news/hong-kong/politics/article/3162123/another-hong-kong-media-outlet-shuts-down-over-fears> ;
<https://ibhk.hk/> ; <https://twitter.com/polymerhk/status/1479089528065249281>

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<https://www.inmediahk.net/node/%E5%AA%92%E9%AB%94/%E7%B6%B2%E7%AB%99%E5%85%AC%E5%91%8A%EF%BC%882022-1-4%EF%BC%89> ; <https://m.facebook.com/daremediahk/posts/653539326002274>

⁴⁰ <https://hongkongfp.com/2021/11/05/online-media-outlet-db-channel-shuts-operations-in-hong-kong-as-detained-co-founder-awaits-national-security-trial/>

⁴¹ The Stand News, "Digital media "852 Post" announces "closure" ; Dismissed six employees; Founder You Qingyuan: The proposed fake news law is the spark (網媒《852 郵報》宣布「暫別」 遣散六員工 創辦人游清源：擬立假新聞法是導火線)" <https://www.thestandnews.com/politics/ab網媒-852郵報-宣布-暫別-遣散六員工-創辦人游清源-擬立假新聞法是導火線>

⁴² Para. 122, CCPR/C/CHN-HKG/RQ/4, March 2021.

⁴³ Para. 13

⁴⁴ <https://hongkongfp.com/2021/10/26/hong-kongs-new-rules-on-accessing-govt-records-put-journalists-at-unnecessary-risk-press-group-says/>; Hong Kong Journalist Association (HKJA), "2021 Annual Report: Freedom in Tatters"; Radio Television Hong Kong (RTHK), "Govt proposes tightening company registry searches," March 29, 2021

<https://news.rthk.hk/rthk/en/component/k2/1583247-20210329.htm>; Selina Cheng, "Hong Kong plans to reduce transparency of electoral roll," HKFP, April 14, 2021 <https://hongkongfp.com/2021/04/14/hong-kong-plans-to-reduce-transparency-of-electoral-roll/>

fully independent mechanism mandated to conduct independent, proper and effective investigation into complaints about the inappropriate use of force or other abuse of power by the police.”⁴⁵ As a result of the lack of an independent mechanism, complaints over excessive use of force against journalists during the 2019 protests were filed to the internal police watchdog, Complaints Against Police Office (CAPO), and reviewed by the Independent Police Complaints Council’s (IPCC). Though Hong Kong Journalist Association (HKJA) won a legal victory in November 2020, when Hong Kong’s Court of First Instance ruled the police complaint system was “inadequate” and violated Article 3 of the Hong Kong Bill of Rights Ordinance, the government has appealed the ruling.⁴⁶ In October 2021, CAPO rejected 26 out of 27 complaints filed by HKJA over officers’ conduct towards reporters from June 2019 to April 2021.⁴⁷

4. Ownership of media

25. The government’s editorial takeover of the public broadcaster Radio Television Hong Kong (RTHK) and direct ownership of two private media outlets demonstrate that the State’s response to the Committee’s List of Issues in March 2021 that “The Government does not interfere with the editorial work of media organisations” is not factually accurate.⁴⁸

4.1 Transformation of public broadcaster into state-run media outlet

26. The government takeover of Radio Television Hong Kong (RTHK) has transformed a once respected public broadcaster into a something resembling a government mouthpiece. RTHK, founded in 1928 and modelled after the British Broadcasting Corporation (BBC), had been one of the most trusted and respected sources of news in Hong Kong in Cantonese, English, and Mandarin. Its charter ostensibly guaranteed its editorial independence, though as a government department, its independence ultimately depended upon the government to respect that distinction. The takeover of RTHK started in July 2020 in the aftermath of the prodemocracy protests, when RTHK’s reporting came under attack from pro-Beijing groups as being “biased,” and the government ordered a review of RTHK’s management and activities.⁴⁹

27. In February 2021, RTHK lost its editorial independence when the Hong Kong government appointed bureaucrat Patrick Li with no broadcasting experience to head the broadcaster.⁵⁰ Other government bureaucrats soon joined Li on the management team and several RTHK journalists and executives resigned or were fired.⁵¹ Li announced an unprecedented policy—that all programs going forward would

⁴⁵ Para. 12, CCPR/C/CHN-HKG/CO/3, March 2013.

⁴⁶ THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE, “THE HONG KONG JOURNALISTS ASSOCIATION vs, THE COMMISSIONER OF POLICE, SECRETARY FOR JUSTICE“ CONSTITUTIONAL AND ADMINISTRATIVE LAW LIST NO 2915 OF 2019 , November 19, 2020, https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=131968&currpage=T ; <https://www.ifj.org/es/centro-de-medios/noticias/detalle/category/press-releases/article/hong-kong-high-court-rules-against-police.html>

⁴⁷ Hong Kong Journalist Association, “香港記者協會對投訴警察課覆函之回應” Press Release, October 19, 2021, <https://www.hkja.org.hk/zh/%E6%96%B0%E8%81%9E%E7%A8%BF/%E9%A6%99%E6%B8%AF%E8%A8%98%E8%80%85%E5%8D%94%E6%9C%83%E5%B0%8D%E6%8A%95%E8%A8%B4%E8%AD%A6%E5%AF%9F%E8%AA%B2%E8%A6%86%E5%87%BD%E4%B9%8B%E5%9B%9E%E6%87%89/>

⁴⁸ Para. 122, CCPR/C/CHN-HKG/RQ/4, March 2021.

⁴⁹ The Government of the Hong Kong Special Administrative Region, “Dedicated team to start review on RTHK’s governance and management in mid-July”, Press Release, July 6, 2020, <https://www.info.gov.hk/gia/general/202007/06/P2020070600521.htm>

⁵⁰ Freedom House, “China Media Bulletin 151 - February 2021”

⁵¹ Freedom House, “China Media Bulletin 152 - March 2021”; Tom Grundy, “Hong Kong journalist who challenged WHO official quits RTHK – sources,” HKFP, April 13, 2021 <https://hongkongfp.com/2021/04/13/journalist-yvonne-tong-quits-rthk-source/>; Selina Cheng, “Hong Kong journalist Steve Vines ‘disappointed’ to be dropped as commentator from RTHK show,” HKFP, April 8, 2021 <https://hongkongfp.com/2021/04/08/hong-kong-journalist-steve-vines-disappointed-to-be-dropped-as-commentator-from-rthk-show/>; Candice Chau, “Hong Kong’s RTHK fires popular pro-democracy radio host Tsang Chi-ho,”

need to be reviewed and approved personally by him, which led to several shows and programs being cancelled.⁵² RTHK also announced that staff could be held financially liable for censored programs, and threatened fines against reporters in May 2021 for airing a video of a previous Tiananmen vigil without authorization.⁵³ In August 2021, RTHK further turned into a propaganda outlet when Carrie Lam announced that RTHK would partner with the state-run China Media Group to broadcast programming to “nurture a stronger sense of patriotism.”⁵⁴ RTHK has also begun to suppress or selectively cover major news stories and blacklisted some Canto-pop singers.⁵⁵ RTHK was a major source of high-quality and independent Cantonese-language content, but in May 2021, the broadcaster deleted all its programming older than one year from Facebook and YouTube, depriving millions of Hong Kongers access to that content.⁵⁶

4.2 Direct state ownership of private media outlets

28. Currently there are two newspapers in Hong Kong directly owned by the Chinese state through the Liaison Office of the Central Government in the Hong Kong Special Administrative Region: *Ta Kung Pao* and *Wen Wei Po*. In 2016, the two papers merged editorial and technical departments but still publish as separate papers.⁵⁷ While they rank low on credibility in public opinion polls and have low levels of readership, the papers have begun signaling to activists potential crackdowns to come. The papers issue editorials attacking opposition and prodemocracy figures who are later targeted by the police, and exemplify the type of state media smears used in the mainland. For example, in April 2021, *Ta Kung Pao* called for *Apple Daily* to be banned for “endangering national security” prior to the raids on the paper,⁵⁸ and in August 2021 *Wen Wei Po* attacked the Hong Kong Journalist Association as “anti-government.”⁵⁹ A February 2022 media investigation of confidential documents exposed the close relationship between Chinese officials and *Ta Kung Pao*, which a senior Liaison Office official praised as a “golden microphone for the central government.”⁶⁰

HKFP, June 19, 2021 <https://hongkongfp.com/2021/06/19/hong-kongs-rthk-fires-popular-pro-democracy-radio-host-tsang-chi-ho/>

⁵² <https://freedomhouse.org/report/china-media-bulletin/2021/disinformation-matures-signal-blocked-global-anti-poverty#A5>

⁵³ Kelly Ho, “Hong Kong gov’t can charge RTHK staff for axed shows, says public broadcaster,” HKFP, April 7, 2021 <https://hongkongfp.com/2021/04/07/hong-kong-govt-can-charge-rthk-staff-for-axed-shows-says-public-broadcaster/>; Amy Nip, “Penalties coming for RTHK staff over June 4 stunt,” The Standard, May 26, 2021 <https://www.thestandard.com.hk/section-news/section/11/230591/Penalties-coming-for-RTHK-staff-over-June-4-stunt>

⁵⁴ Rhoda Kwan, “Hong Kong’s RTHK will become state media after partnership with China’s CCTV, says press group chief,” HKFP, August 11, 2021 <https://hongkongfp.com/2021/08/11/hong-kongs-rthk-will-become-state-media-after-partnership-with-chinas-cctv-says-press-group-chief/>; Reporters without Borders, “Hong Kong: RSF concerned by future “partnership” between public broadcaster RTHK and Chinese state media,” August 10, 2021 <https://rsf.org/en/news/hong-kong-rsf-concerned-future-partnership-between-public-broadcaster-rthk-and-chinese-state-media>

⁵⁵ <https://hongkongfp.com/2021/11/24/hong-kong-broadcaster-rthk-deletes-report-on-peng-shuai-china-tennis-star-who-accused-ex-official-of-sexual-assault/>; <https://hongkongfp.com/2021/12/24/hosts-at-govt-funded-rthk-told-not-to-discuss-removal-of-tiananmen-massacre-statue-on-air-sources/>; <https://variety.com/2022/music/asia/hong-kong-rthk-blacklists-musicians-1235164826/>

⁵⁶ Selina Cheng, “Hong Kong broadcaster RTHK deletes shows over a year old from internet as viewers scramble to save backups,” HKFP, May 3, 2021 <https://hongkongfp.com/2021/05/03/hong-kong-broadcaster-rthk-to-delete-shows-over-a-year-old-from-internet-as-viewers-scramble-to-save-backups/>; Tom Grundy, “Embattled Hong Kong broadcaster RTHK deletes all Tweets, disables Twitter comments,” HKFP, August 4, 2021 <https://hongkongfp.com/2021/08/04/embattled-hong-kong-broadcaster-rthk-deletes-all-tweets-disables-twitter-comments/>

⁵⁷ Jennifer Lo, “Pro-Beijing newspapers Wen Wei Po and Ta Kung Pao to merge,” Nikkei Asia, February 16, 2016 <https://asia.nikkei.com/Business/Pro-Beijing-newspapers-Wen-Wei-Po-and-Ta-Kung-Pao-to-merge>

⁵⁸ Radio Free Asia, “China-Backed Hong Kong Paper Calls For ‘Ban’ on Pro-Democracy Apple Daily,” April 16, 2021 <https://www.rfa.org/english/news/china/hongkong-appledaily-04162021084518.html>

⁵⁹ Rhoda Kwan, “Beijing-controlled paper labels Hong Kong press union an ‘anti-govt political organisation’,” HKFP, August 13, 2021 <https://hongkongfp.com/2021/08/13/beijing-controlled-paper-labels-hong-kong-press-union-an-anti-govt-political-organisation>

⁶⁰ Pak Yiu, “Hong Kong’s independent media fight to survive,” *Nikkei Asia*, February 9, 2022, <https://asia.nikkei.com/Spotlight/The-Big-Story/Hong-Kong-s-independent-media-fight-to-survive>

4.3 State-linked actors' ownership of private media outlets

29. In February 2021, Hong Kong's oldest Chinese-language newspaper, *Sing Tao*, was purchased by the daughter of a Shenzhen-based property tycoon.⁶¹ Following the acquisition, in August, the US Department of Justice ordered the paper's US subsidiary to register as a foreign agent under the Foreign Agents Registration Act (FARA), indicating a high level of direct government ownership of the paper.⁶² In April 2021, Phoenix Television founder Liu Changle sold his stake in the broadcaster to Chinese state-owned Bauhinia Culture Holdings and the Hong Kong-Macau company Shen Tuk Holdings, making the majority of Phoenix TV state-owned.⁶³ Three new directors were brought in, all of whom are believed to have previously worked for the central government in Beijing.⁶⁴

30. Regulatory moves in the mainland have implications for the media environment in Hong Kong. Alibaba-owned *South China Morning Post*, Hong Kong's oldest English-language newspaper, is facing the prospect of new ownership after mainland regulators reportedly ordered Alibaba in March 2021 to divest its media holdings.⁶⁵ There are fears that the paper could be bought by a Chinese state-owned company or mainland billionaire who would dramatically transform the paper's editorial line and coverage. Alibaba's ownership of the paper, while criticized at times, has generally continued to allow independent reporting and some critical commentary by its journalists and op-ed contributors.

5. Socio-economic repercussions on journalists

31. An estimated 1,115 media professionals lost their jobs in 2021 amid the national security crackdown on the press, or approximately 20 percent of the total number of Hong Kong's Chinese-language media workers.⁶⁶ Some have left the profession to open restaurants, drive taxis, or freelance, or have fled into exile. Others have been forced to take on temporary or gig jobs to survive, such as delivering food, collecting trash, waiting tables, cleaning air-conditioners, or moving furniture.⁶⁷ *Apple Daily* used to employ 1,000 people and many reporters found themselves unemployed due to the paper's closure and a fear that they would not be able to find a new job in Hong Kong's media environment due to their previous employer.⁶⁸

32. The trade union representing Hong Kong journalists, the Hong Kong Journalist Association, is considering disbanding as it has come under scrutiny from the government's Registry of Trade Unions.⁶⁹

⁶¹ Enoch Yiu, "Property magnate's 26-year-old daughter buys Sing Tao, sends Hong Kong paper's shares soaring by 54 per cent to five-month high," SCMP, February 2, 2021 <https://www.scmp.com/business/china-business/article/3120268/shenzhen-based-kaisa-groups-kwok-hiu-ting-becomes-largest>

⁶² Sarah Zheng, "Hong Kong newspaper Sing Tao forced to register US arm as a foreign agent," SCMP, August 16, 2021 <https://www.scmp.com/news/china/diplomacy/article/3146478/hong-kong-newspaper-sing-tao-forced-register-us-arm-foreign>; Sing Tao US Registration Statement, August 23, 2021 <https://efile.fara.gov/docs/6999-Exhibit-AB-20210823-1.pdf>

⁶³ Freedom House, "China Media Bulletin 154 - May 2021"

⁶⁴ Radio Free Asia, "Publishing, Media Takeovers Part of China's Two-Pronged Grip on Hong Kong," May 10, 2021 <https://www.rfa.org/english/news/china/hongkong-media-05102021083345.html>

⁶⁵ Isabella Steger and Kari Soo Lindberg, "Jack Ma's SCMP Joins Hong Kong Media Groups Facing China Control," Bloomberg, March 16, 2021 <https://www.bloomberg.com/news/articles/2021-03-16/jack-ma-s-scmp-joins-hong-kong-media-groups-facing-china-control>

⁶⁶ <https://www.bloomberg.com/news/articles/2022-01-19/hong-kong-s-crackdown-leaves-journalists-hawking-fried-chicken?sref=jR90f8Ni>

⁶⁷ <https://www.vice.com/en/article/akvjd8/hong-kong-journalists-cabbies-fried-chicken>

⁶⁸ Tommy Walker, "Fears About National Security Law Chill Hong Kong Media," Voice of America, August 12, 2021 <https://www.voanews.com/press-freedom/fears-about-national-security-law-chill-hong-kong-media>

⁶⁹ <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/hong-kong-hkja-considers-disbanding-amidst-growing-safety-concerns.html>

The union represents media workers from publications across the political spectrum and has been one of the lone voices continuing to speak out in defense of press freedom and the rights of journalists to conduct their profession without government and police interference.

6. Restrictions on foreign media operating in Hong Kong

33. In July–August 2020, immigration authorities refused to issue visas to a *New York Times* correspondent and to an editor of the *Hong Kong Free Press*.⁷⁰ The *Times* announced that it would move its Hong Kong–based digital news operations to South Korea.⁷¹ The Foreign Correspondents’ Club of Hong Kong described a unusually high number of visa delays for journalists in Hong Kong in 2020.⁷² Such restrictions continued into 2021, and in November, Hong Kong authorities denied an *Economist* journalist a visa.⁷³ It is highly likely this denial of journalist visas is being used to punish or restrict critical foreign media, copying a tactic long used in mainland China but previously rare in Hong Kong. Hong Kong officials have also threatened media outside of Hong Kong with prosecution over their coverage of events in the territory. In December 2021, Hong Kong diplomats sent letters to the editors of the *Wall Street Journal* in the United States and the United Kingdom’s *Sunday Times*, threatening prosecution under Hong Kong’s Elections (Corrupt and Illegal Conduct) Ordinance over their coverage of December 2021’s Legislative Council elections.⁷⁴ The officials claimed Hong Kong’s ordinance that prohibited inciting another person not to cast a ballot or to cast an invalid ballot applied in Hong Kong and abroad.⁷⁵

7. Proposed “fake news” and Article 23 laws

34. On May 4, 2021, Chief Executive Carrie Lam announced that the government was working on “fake news” legislation.⁷⁶ Pro-Beijing politicians supported the move and called for the government to legislate against content that “incites hatred of the government.”⁷⁷ A “fake news” law would have serious ramifications for press freedom in Hong Kong, including potentially introducing new criminal penalties to be used against critical or independent media, and could lead to further arrests of journalists, the closures of media organizations, lawsuits, as well as further self-censorship and content removal.

35. In January 2022, Hong Kong’s security chief announced plans to introduce legislation in the second half of 2022 to enact the long-shelved Article 23 of the Basic Law, dealing with acts of treason, sedition,

⁷⁰ Committee to Protect Journalists (CPJ), “Hong Kong denies work permit to New York Times correspondent Chris Buckley,” July 15, 2020 <https://cpj.org/2020/07/hong-kong-denies-work-permit-to-new-york-times-correspondent-chris-buckley/>; CPJ, “Hong Kong denies work permit to editor of independent Hong Kong Free Press,” August 27, 2020 <https://cpj.org/2020/08/hong-kong-denies-work-permit-to-editor-of-independent-hong-kong-free-press/>

⁷¹ Michael M. Grynbaum, “New York Times Will Move Part of Hong Kong Office to Seoul,” *The New York Times*, July 14, 2020 <https://www.nytimes.com/2020/07/14/business/media/new-york-times-hong-kong.html>

⁷² Chris Lau, “Delayed work visas for foreign journalists in Hong Kong ‘highly unusual’, says press body as it warns of damage to city’s reputation,” *SCMP*, August 6, 2020 <https://www.scmp.com/news/hong-kong/politics/article/3096358/delayed-work-visas-foreign-journalists-hong-kong-highly>

⁷³ <https://press.economist.com/story/15283/statement-from-the-economist>

⁷⁴ <https://www.brandhk.gov.hk/docs/default-source/clarifications/2021/2021-12-01-Letter-to-Wall-Street-Journal.pdf> ;

<https://www.brandhk.gov.hk/docs/default-source/clarifications/2021/2021-12-08-Letter-to-The-Sunday-Times.pdf>

⁷⁵ <https://www.wsj.com/articles/hong-kong-china-wsj-threat-election-legco-democracy-freedom-protest-ccp-11638575014>

⁷⁶ “Hong Kong leader flags ‘fake news’ laws as worries over media freedom grow,” *Reuters*, May 3, 2021

<https://www.reuters.com/world/china/hong-kong-leader-flags-fake-news-laws-worries-over-media-freedom-grow-2021-05-04/>

⁷⁷ Rhoda Kwan, “Hong Kong gov’t and lawmakers back ‘fake news’ law plan; press union chief warns of new ‘sword over journalists’ heads’,” *HKFP*, July 21, 2021 <https://hongkongfp.com/2021/07/21/hong-kong-govt-and-lawmakers-back-fake-news-law-plan-press-union-chief-warns-of-new-sword-over-journalists-heads/>

secession, subversion, state secrets, and activities of foreign political organizations.⁷⁸ While such plans have been delayed due to the COVID-19 pandemic, the make-up of the Legislative Council and lack of opposition members means the legislation will easily pass with little scrutiny.⁷⁹ State secrets charges are commonly used in the mainland against journalists and activists, and such legislation enacted in Hong Kong could further restrict the freedom of the press and potentially lead to additional jailing of journalists and internet users. The Hong Kong government explored passing similar legislation in 2003 but shelved the proposal after a mass protest.

B. Internet Freedom

36. Hong Kong had traditionally enjoyed a free and open internet before the introduction of the NSL but internet censorship has become increasingly common. Under Article 43 of the NSL and the implementing measures enacted by the Hong Kong government, police are empowered to order the blocking and deletion of content by message publishers, platform service providers, hosting service providers, and/or network service providers. Police can also intercept communications or conduct covert surveillance upon approval of the Chief Executive.⁸⁰ Those who do not comply with these provisions, including the employees of technology companies, could face fines or even prison sentences. The legislative powers and implementation by Hong Kong police show that the State's reply to the Committee's List of Issues in March 2021 that "The Government...does not exercise censorship in traditional media or over the internet" does not reflect the reality on the ground.⁸¹

1. Website blocking

37. The blocking of websites restricts the free expression rights of Hong Kongers, including to seek and receive information. While website blocking has increased under the NSL, to date only eight websites have been blocked. This is vastly different from the mainland system where the Great Firewall currently blocks thousands of websites. Facebook, Twitter, and other international websites not only continue to be accessible in Hong Kong, but also remain among the dominant platforms used by Hong Kongers. No media websites have been blocked, to date.

38. In January 2021, Hong Kong authorities blocked access to a website for the first time under the NSL. The blocked site, HKChronicles, was a platform that has been used by activists to dox police officers (among them, those involved in attacking protesters) and expose pro-Beijing businesses.⁸² Afterwards, four websites, all with Taiwan-based IP addresses, were blocked, though two sites became accessible after three days. Some had clear links to the protest movement, such as the site of a Taiwanese church that raised donations for Hong Kong protesters, but the others were websites of Taiwan's ruling party, a military recruitment platform, and the transitional justice commission. In June 2021, Hong Kong internet service providers blocked access to the exile website 2021 Hong Kong Charter (2021hkcharter.com).⁸³

⁷⁸ <https://www.basiclaw.gov.hk/en/basiclaw/chapter2.html> ; <https://www.scmp.com/news/hong-kong/law-and-crime/article/3164776/hong-kong-plans-introduce-long-shelved-article-23-anti> ; <https://hongkongfp.com/2022/05/11/hong-kong-security-law-article-23-delayed-by-covid-19-outbreak-says-security-chief/>

⁷⁹ <https://hongkongfp.com/2022/05/11/hong-kong-security-law-article-23-delayed-by-covid-19-outbreak-says-security-chief/>

⁸⁰ Government of the Hong Kong SAR, "Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region gazette," July 6, 2020 <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>; Patrick Frater, "National Security Law Expands Online Reach of Hong Kong Police," Variety, July 7, 2020 <https://variety.com/2020/digital/asia/national-security-law-online-hong-kong-police-1234699833/>

⁸¹ Para. 122, CCPR/C/CHN-HKG/RQ/4, March 2021.

⁸² "In a first under security law, Hong Kong police order telecom firms to block anti-gov't doxing website – report," HKFP, January 11, 2021 <https://hongkongfp.com/2021/01/11/in-a-first-under-security-law-hong-kong-police-order-telecoms-firms-to-block-anti-govt-doxing-website/>

⁸³ Freedom House, "China Media Bulletin 155 - June 2021"

Earlier that month, the website temporarily went down globally after Hong Kong police ordered its Israel-based hosting provider to close it.⁸⁴ This was the first instance of Hong Kong authorities invoking extraterritorial jurisdiction of the NSL against a website. On September 28, 2021 the website for an online museum commemorating the 1989 Tiananmen Massacre, “8964museum.com”, was blocked in Hong Kong.⁸⁵ On February 14, 2022, the UK-based NGO Hong Kong Watch’s website was blocked.⁸⁶

39. In May 2022, pro-government lawmakers called on the Hong Kong government to considering blocking access to the messaging platform Telegram under revised legislation related to doxing (see more in Section B.3).⁸⁷ At the time of writing, Telegram is still accessible in Hong Kong.

2. Content removal

40. Most content that has been removed was taken down by media outlets themselves after they were shut down or while under police investigation. Compared to website blocks, whereby the censored content remains online and accessible outside of the territory, such large-scale content removals have effectively erased decades of independent reporting and commentary for users in Hong Kong but global audiences.

41. All of *Apple Daily*’s online content has been removed.⁸⁸ The deletion of this information was a monumental loss of millions of articles and social media posts.⁸⁹ A group of individuals launched a crowdsourced effort to help scrape some of the website before it closed and saved two million pages and put them on the website collection.news.⁹⁰ In June 2021, Stand News removed all of its online opinion articles following the arrests of *Apple Daily* staff, and then shut down its website and deleted its social media accounts after the December 2021 police arrests.⁹¹ RTHK deleted all its content older than one year from Facebook and YouTube and removed all of its posts from its English-language Twitter account in August 2021.⁹² Hong Kong netizens have tried to archive past programs on a blockchain platform.⁹³

42. Content has also been removed by international technology companies, sometimes at the request from Hong Kong authorities. In 2019, Apple removed an app from its app store that was used to track police movements during the protests under pressure from the government. Google removed a separate app related to the protests for violating its policy of “capitalizing on sensitive events.”⁹⁴ Facebook has

⁸⁴ Kelvin Chan, “Hong Kong police tell foreign hosting firm to remove website,” AP, June 3, 2021

<https://apnews.com/article/middle-east-hong-kong-europe-police-technology-b937510d587c77249cadd5d0ff89fd7f>

⁸⁵ Stand News, 「六四記憶。人權博物館」網站疑被封 由支聯會眾籌設立 香港網民須「翻牆」瀏覽” September 28, 2021, <https://archive.ph/MO7Dk>

⁸⁶ <https://www.hongkongwatch.org/all-posts/2022/2/14/hong-kong-watch-website-blocked-by-internet-firms-in-hong-kong>

⁸⁷ <https://www.scmp.com/news/hong-kong/law-and-crime/article/3178266/hong-kong-privacy-watchdog-considers-blocking-telegram>

⁸⁸ It had 600,000 paid subscribers at the time of its closure, and its website received nearly 18.7 million visits in May 2021. The newspaper had 2.6 million Facebook followers, 1.89 million followers on its YouTube channel, 1 million followers on its Instagram account, and over 500,000 followers on Twitter.

⁸⁹ Angeli Datt, “How Beijing Has Dismantled Freedom of Expression in Hong Kong in Just One Year,” Freedom House, June 30, 2021 <https://freedomhouse.org/article/how-beijing-has-dismantled-freedom-expression-hong-kong-just-one-year>

⁹⁰ Su Xinqi, “A virtual Noah’s Ark: Hongkongers race to archive democracy movement amid city-wide purge,” Agence France Presse, August 28, 2021 <https://hongkongfp.com/2021/08/28/digital-dissent-hongkongers-race-to-archive-democracy-movement/>

⁹¹ Cheng, “Security law: Stand News opinion articles axed, directors resign amid reported threats to Hong Kong digital outlets.”

⁹² Selina Cheng, “Hong Kong broadcaster RTHK deletes shows over a year old from internet as viewers scramble to save backups,” HKFP, May 3, 2021 <https://hongkongfp.com/2021/05/03/hong-kong-broadcaster-rthk-to-delete-shows-over-a-year-old-from-internet-as-viewers-scramble-to-save-backups/>; Tom Grundy, “Embattled Hong Kong broadcaster RTHK deletes all Tweets, disables Twitter comments,” HKFP, August 4, 2021 <https://hongkongfp.com/2021/08/04/embattled-hong-kong-broadcaster-rthk-deletes-all-tweets-disables-twitter-comments/>

⁹³ Cheng, “Hong Kong broadcaster RTHK deletes shows over a year old from internet as viewers scramble to save backups.”

⁹⁴ Jack Nicas, “Apple Removes App That Helps Hong Kong Protesters Track the Police,” The New York Times, October 9, 2019 <https://www.nytimes.com/2019/10/09/technology/apple-hong-kong-app.html>

removed several popular pages run by prodemocracy and pro-police groups without explanation.⁹⁵ Most major foreign technology companies announced they would not comply with government requests for user data in the aftermath of the NSL, though the companies' transparency around government takedown requests could be stronger.⁹⁶

3. Criminal prosecution and new legislation restricting online speech

43. Hong Kongers are increasingly at risk of criminal prosecution for exercising their right to freedom of expression online, which had been uncommon in Hong Kong prior to the NSL. On January 4, 2022, activist Chow Hang-tung was sentenced to 15 months in prison on charges of "incitement to knowingly take part in an unauthorized assembly."⁹⁷ Chow had written a Facebook post calling on residents to light a candle on June 4—the anniversary of the Tiananmen Square massacre—after authorities banned a vigil. Youth activist Tony Chung was sentenced to three years and seven months in prison on charges of "secession," an NSL offence, and "money laundering." The secession charges relate to his role running the student organization Studentlocalism's Facebook page.⁹⁸ Following the passage of the new electoral laws in May 2021, the Elections (Corrupt and Illegal Conduct) Ordinance criminalized inciting someone to spoil or leave blank their ballot punishable by three years in prison and a HK\$200,000 (US\$25,600) fine. Hong Kong's Independent Commission Against Corruption then arrested 10 people for making comments online ahead of December 2021 Legislative Council elections, three of whom were charged.⁹⁹ Two received suspended prison sentences in May 2022.¹⁰⁰

44. Several laws have been amended to criminalize online activity. The October 2021 amendment to the Personal Data (Privacy) Ordinance (Cap. 486) criminalized doxing, or releasing person information online, making offenses punishable by up to five years in prison and a HK\$1 million (US\$128,000) fine.¹⁰¹ The law empowered the Hong Kong privacy commissioner to authorize warrantless investigations and searches in instances of suspected doxing, press charges without involvement of the Justice Department, order that content be removed from online sites and to issue such orders to extraterritorial parties. The law would permit local employees of overseas technology companies to be arrested and jailed for two years if their companies fail to comply with takedown requests, and for the platforms to be blocked in Hong Kong. The Asia Internet Coalition, an industry group including Google, Twitter, and Facebook, and the Hong Kong Law Society detailed concerns about the amendments.¹⁰² To date, two individuals have been arrested under the law for releasing personal information online.¹⁰³ An October 2021 amendment to the National Flag and National Emblem Ordinance extended the prohibition on

⁹⁵ Eric Cheung, "Why Facebook is losing friends in Hong Kong," Rest of World, February 28, 2021 <https://restofworld.org/2021/why-facebook-is-losing-hongkong/>

⁹⁶ Hadas Gold, "Facebook, Google and Twitter won't give Hong Kong authorities user data for now," CNN, July 7, 2020 <https://www.cnn.com/2020/07/06/tech/whatsapp-facebook-hong-kong/index.html>; Radio Free Asia, "Facebook Turned Down Hundreds of User Data Requests From Hong Kong," June 8, 2021 <https://www.rfa.org/english/news/china/hongkong-facebook-06082021103754.html>

⁹⁷ <https://www.cnn.com/2022/01/04/asia/chow-hang-tung-hong-kong-sentenced-intl-hnk/index.html>

⁹⁸ <https://hongkongfp.com/2021/11/23/breaking-hong-kong-activist-tony-chung-sentenced-to-3-years-and-7-months-for-secession-and-money-laundering/>

⁹⁹ <https://www.scmp.com/news/hong-kong/law-and-crime/article/3159098/hong-kong-elections-anti-graft-agency-arrests-3-over> ; <https://www.scmp.com/news/hong-kong/politics/article/3159849/hong-kong-elections-4-more-arrested-suspicion-inciting>

¹⁰⁰ <https://www.thestandard.com.hk/breaking-news/section/4/189298/First-Hong-Kongers-convicted-for-online-vote-boycott-calls%2%A0%2%A0>

¹⁰¹ Cap. 486 Personal Data (Privacy) Ordinance, 1996, amended 2021 https://www.elegislation.gov.hk/hk/cap486?xid=ID_1438403261271_001

¹⁰² <https://aicasia.org/2021/07/05/hong-kong-aic-submits-position-paper-on-the-proposed-amendments-to-hong-kongs-personal-data-privacy-ordinance-to-pcpd/> ; https://www.hklawsoc.org.hk/-/media/HKLS/pub_e/news/submissions/20210818.pdf

¹⁰³ Office of the Privacy Commissioner for Personal Data, Hong Kong, "The PCPD Made the Second Arrest For a Suspected Doxing Offence," Press Release, April 26, 2022, https://www.pcpd.org.hk/english/news_events/media_statements/press_20220426.html

“desecration” of the flag or emblem to those who publish or “distribute, disseminate or make available to the public” such a desecration, including online.¹⁰⁴

4. Cyberattacks

45. There have been numerous cyberattacks linked to the Chinese state, originating in China, or from unidentified actors on websites and platforms used by protesters and civil society in Hong Kong. Telegram and LIHKG.com, used by protesters to organize and communicate online, suffered large distributed denial-of-service (DDoS) attacks during the 2019 protests.¹⁰⁵ The Amnesty International Hong Kong office, local universities, and Android and iOS users in Hong Kong have been targeted by malware between 2019-2021.¹⁰⁶ In November 2021, Google discovered a zero-day vulnerability in macOS software which infected visitors to a Hong Kong media outlet and a prominent pro-democracy labor and political group, though the company did not reveal which websites were infected.¹⁰⁷

¹⁰⁴ 7(2), National Flag and National Emblem Ordinance, 2017, amended 2021, https://www.elegislation.gov.hk/hk/A401?xpid=ID_1438403581365_002

¹⁰⁵ Jon Porter, “Telegram blames China for ‘powerful DDoS attack’ during Hong Kong protests,” The Verge, June 13, 2019 <https://www.theverge.com/2019/6/13/18677282/telegram-ddos-attack-china-hong-kong-protest-pavel-durov-state-actor-sized-cyberattack>; Phil Muncaster, “China’s Great Cannon Fires on Hong Kong Protesters,” Infosecurity Magazine, December 5, 2019 <https://www.infosecurity-magazine.com/news/chinas-great-cannon-fires-on-hong/>; Chris Doman, “The ‘Great Cannon’ has been deployed again,” AT&T Cybersecurity, December 4, 2019 <https://cybersecurity.att.com/blogs/labs-research/the-great-cannon-has-been-deployed-again>

¹⁰⁶ Amnesty International, “State-sponsored hackers target Amnesty International Hong Kong with sophisticated cyber-attack,” April 25, 2019 <https://www.amnesty.org/en/latest/news/2019/04/state-sponsored-cyber-attack-hong-kong/>; Hossein Jazi and Jerome Segura, “Chinese APT group targets India and Hong Kong using new variant of MgBot malware,” Malware Bytes Lab, July 28, 2021 <https://blog.malwarebytes.com/threat-analysis/2020/07/chinese-apt-group-targets-india-and-hong-kong-using-new-variant-of-mgbot-malware>; Elliot Cao, Joseph C. Chen, William Gamazo Sanchez, Lilang Wu, and Ecular Xu, “Operation Poisoned News: Hong Kong Users Targeted With Mobile Malware via Local News Links,” Trend Micro, March 24, 2020 <https://blog.trendmicro.com/trendlabs-security-intelligence/operation-poisoned-news-hong-kong-users-targeted-with-mobile-malware-via-local-news-links/>; Mathieu Tartare, “Winnti Group targeting universities in Hong Kong,” We Live Security, January 31, 2020 <https://www.welivesecurity.com/2020/01/31/winnti-group-targeting-universities-hong-kong/>; Bill Toulas, “The ‘Winnti’ Group of Chinese Hackers Targeted Hong Kong Universities,” Tech Nadu, February 1, 2020 <https://www.technadu.com/the-winnti-group-chinese-hackers-targeted-hong-kong-universities/91297/>

¹⁰⁷ Erye Hernandez, “Analyzing a watering hole campaign using macOS exploits,” Google Threat Analysis Group, November 11, 2021, <https://blog.google/threat-analysis-group/analyzing-watering-hole-campaign-using-macos-exploits/>