



**THE SIX-MONTHLY REPORT ON HONG KONG
1 JULY TO 31 DECEMBER 2022**

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Secretary of State for Foreign, Commonwealth and Development Affairs

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FOREWORD

Hong Kong remains a globally significant city with close historical, interpersonal and economic links to the UK.

As I said in my Mansion House speech in April, we will work with China where our interests converge while steadfastly defending our national security and our values. In particular, we will never waver from holding China to the obligations it has freely accepted, including the Sino-British Joint Declaration.

The UK has longstanding ties of history and friendship with the people of Hong Kong. Many have chosen to settle here through the dedicated British National (Overseas) visa route and make an immense contribution to our society.

The lifting of Covid-19 restrictions means that Hong Kong is once again open for business to the world. While Hong Kong's economic, monetary and financial systems remain distinct, actions taken by the Chinese and Hong Kong authorities continue to erode Hong Kong's social, legal and judicial systems. It is in everyone's interest that Hong Kong retains this distinction.

That is why we call on Beijing and the Hong Kong authorities to implement the recommendations made in the UN Human Rights Council July report on the implementation of the International Covenant on Civil and Political Rights, including by removing the National Security Law.

At the UN Human Rights Council in February this year, I highlighted how the Hong Kong authorities use the National Security Law and the antiquated offence of sedition to persecute those who disagree with the Government. They deliberately target prominent pro-democracy figures, journalists and politicians in an effort to silence and discredit them. Detained British dual national Jimmy Lai is one such figure. I raised his case with Chinese Vice President Han Zheng earlier this month, and we have raised it at the highest levels with the Hong Kong authorities.

This year, Jimmy Lai, the 'NSL 47', the Stand News journalists and many other pro-democracy figures will be put on trial under national security laws. Many of these individuals have been held on remand without bail for over two years. Thousands who were arrested during the protests in 2019 are still waiting to learn if they will face trial.

We will continue to monitor closely how recent changes in Hong Kong will be implemented. On 2 May, the Chief Executive announced proposed electoral changes to Hong Kong's District Council, significantly reducing the number of seats directly elected by the city's population. In response to Beijing's interpretation of the NSL in December, the Legal Practitioners Ordinance was amended by the Hong Kong Government on 10 May. Powers once vested in the judiciary have transferred to the Chief Executive. Those facing national security charges no longer have the right to challenge Government decisions in the courts.

China remains in an ongoing state of non-compliance with the Sino-British Joint Declaration. We have stood with our partners in condemning the steady erosion of civil and political rights and Hong Kong's autonomy. China should uphold all its international commitments, including the Joint Declaration.

Secretary of State for Foreign, Commonwealth and Development Affairs

INTRODUCTION

This series of Six-monthly Reports reflects our continuing interest in developments in Hong Kong and our commitment to the faithful implementation of the 1984 Sino-British Joint Declaration. This Declaration guaranteed that, for 50 years from 1997, the Hong Kong Special Administrative Region (SAR) would enjoy a high degree of autonomy, except in foreign and defence affairs, and that it would be “vested with executive, legislative and independent judicial power”. The continuation of Hong Kong’s social and economic systems, lifestyle, and rights and freedoms is guaranteed under the Sino-British Joint Declaration. This arrangement was popularly referred to as ‘One Country, Two Systems’.

Events are covered in the report under the categories of:

- Significant political developments;
- Constitution and ‘One Country, Two Systems’;
- Legal and judicial systems; and
- Basic rights and freedoms.

The period from July to December 2022 saw the 25th anniversary of the handover of Hong Kong and establishment of the Hong Kong SAR. In July, Chinese President Xi Jinping visited Hong Kong to inaugurate the new Chief Executive, John Lee Ka-chiu. During the Communist Party’s 20th Congress, Xi referred to ‘One Country, Two Systems’ as a principle that “must be adhered to over the long term”, highlighting his commitment to what he viewed as “law-based governance in Hong Kong”.

In July, the UN Human Rights Council (UNHRC) conducted a review of the implementation of the International Covenant on Civil and Political Rights (ICCPR) in Hong Kong. The UN called on the Hong Kong SAR Government to repeal the National Security Law (NSL) and sedition laws.

A number of NSL cases continued in the courts. Three trials concluded by the end of the reporting period, with all 15 defendants tried found guilty including Apple Daily journalists. In August, the Court of Appeal (CA) allowed the first ever sentencing appeal under the NSL, and the High Court mandated the lifting of reporting restrictions on NSL pre-trial proceedings.

This reporting period also saw Beijing’s first interpretation of the NSL. In November, the Court of Final Appeal (CFA) allowed British barrister Timothy Owen KC to represent Jimmy Lai in his upcoming NSL trial. Following Chief Executive John Lee’s formal request on 28 November, China’s National People’s Congress Standing Committee (NPCSC) on 30 December adopted an interpretation of Articles 14 and 47 of the NSL. This interpretation clarified the powers of the Committee for Safeguarding National Security in Hong Kong and the Chief Executive in defining acts or issues involving national security.

The use of sedition laws continued to expand, with activists, civil servants and ordinary citizens arrested or convicted, mostly for non-violent free speech. Acts such as

criticising judges during court hearings and publishing anti-government content online overseas were ruled seditious. High profile pro-democracy figures, including Jimmy Lai and former pan-democratic politicians, were jailed for non-NSL offences.

Freedom of the press came under increasing pressure. Prosecutions against journalists continued. A number of them remained in custody awaiting sentence or facing trial.

The UK considered China to be in a state of ongoing non-compliance with the Sino-British Joint Declaration throughout this period.

TIMELINE OF SIGNIFICANT DEVELOPMENTS

- **1 July** – President Xi Jinping visits Hong Kong to celebrate the 25th anniversary of the establishment of the Hong Kong SAR. Chief Executive-designate John Lee officially inaugurated as the Hong Kong SAR Government's fifth Chief Executive.
- **7-12 July** – The UN Human Rights Council (UNHRC) reviews Hong Kong's implementation of the International Covenant on Civil and Political Rights (ICCPR).
- **2 August** – The High Court mandates the lower Court to lift reporting restrictions on pre-trial proceedings of cases including of the NSL.
- **3 August** – The Court of Appeal (CA) allows Adam Ma Chun-man's sentencing appeal – the first ever NSL – and reduces his sentence to five years.
- **18 August** – The High Court grants exemption to Chief Executive John Lee over his non-compliance with election rules.
- **10 September** – Five speech therapists are sentenced to 19 months in prison for conspiring to publish seditious publications.
- **8 October** – Five teenage members of the pro-independence group "Returning Valiant" are sentenced to up to three years of detention in a training centre for conspiracy to incite subversion under the NSL.
- **19 October** – Chief Executive John Lee delivers his first annual Policy Address.
- **22 October** – Three members of the student group "Student Politicism" are sentenced to up to three years in prison and another member sentenced to a training centre, for conspiracy to incite subversion under the NSL.
- **27 October** – Two people are sentenced to 12 and three months respectively for sedition, for causing a nuisance during court hearings.
- **22 November** – Six former Apple Daily staff are convicted of conspiracy to commit collusion with a foreign country under the NSL and sedition.

- **25 November** – All five trustees of 612 Humanitarian Relief Fund, including Cardinal Joseph Zen Ze-kiun, are convicted of failing to register the fund under the Societies Ordinance, and fined.
- **28 November** – The Court of Final Appeal (CFA) allows British barrister Timothy Owen KC to represent Jimmy Lai in his national security trial.
- **28 November** – Chief Executive John Lee invites China’s National People’s Congress Standing Committee (NPCSC) to make an interpretation of the NSL.
- **30 November** – The CA dismisses Lui Sai-yu’s sentencing appeal and upholds the original five-year mandatory minimum.
- **10 December** – Jimmy Lai is sentenced to five years and nine months in prison for fraud.
- **14 December** – The High Court overturns both the conviction and sentence of former Hong Kong Alliance vice chair, Chow Hang-tung, for inciting people to attend the 2021 Tiananmen Square Massacre vigil.
- **15 December** – 36 Hong Kong deputies elected to the 14th National People’s Congress (NPC).
- **18 December** – The Legislative Council by-elections take place, with four new members returned by the Election Committee.
- **30 December** – China’s NPCSC adopts an interpretation of Article 14 and Article 47 of the NSL.

SIGNIFICANT POLITICAL DEVELOPMENTS

President Xi Jinping's visit to Hong Kong set out four new requirements for the SAR. Beijing's first interpretation of the NSL reaffirmed the powers of the Chief Executive and the National Security Committee in defining acts or issues involving national security. Reprisals continued against democratic voices.

25th Anniversary of the Handover and Establishment of Hong Kong SAR: President Xi's Visit to Hong Kong

President Xi Jinping visited Hong Kong from 30 June to 1 July to celebrate the 25th anniversary of the establishment of the Hong Kong SAR and inaugurate the new Chief Executive, John Lee. Xi's programme included meetings with the Legislative Council and the Judiciary, as well as inspecting the Hong Kong Science Park and the People's Liberation Army Hong Kong Garrison.

President Xi made a number of speeches during his visit. In his speech at the inauguration ceremony on 1 July, he remarked that 'One Country, Two Systems' had achieved success in Hong Kong, emphasising that "*there is no reason to change such a good policy*". He said Hong Kong must fulfil four requirements, namely implementing the 'One Country, Two Systems' principle in a "*thorough and precise*" manner; upholding the Central Government's overall jurisdiction over Hong Kong and the SAR's high degree of autonomy; ensuring only patriots administer Hong Kong; and maintaining Hong Kong's unique status and strengths including its common law system. He set out four expectations for the SAR's new administration - that Hong Kong enhance governance, strengthen its development momentum, improve people's livelihoods, and safeguard the city's harmony and stability. In addition, he called for support for young people in Hong Kong. There was no mention of universal suffrage.

The remarks made by President Xi set the tone for the wider discourse throughout this reporting period. They, along with the President's remarks at the 20th Party Congress in October, were referred to regularly by senior Central People's Government and Hong Kong SAR Government officials.

The UK Government marked the 25th anniversary of the handover of Hong Kong with a statement, and released a short video message.

On 30 June, then Prime Minister, Rt Hon Boris Johnson MP, said in a video:

"A day of celebration, not sorrow'. That's what Governor Chris Patten called the end of British administration in Hong Kong a quarter of a century ago. And as the tropical rain lashed down over Victoria Harbour on that day in 1997, the trepidation felt by many locals was indeed tempered by a degree of certainty and confidence in what the future held.

With the Joint Declaration the Chinese government had enthusiastically committed to the concept of One Country, Two Systems. And that meant that while much would change on the surface, the foundations on which modern Hong Kong had been built would go largely undisturbed.

For a time that was indeed the case and Hong Kong and its people continued to thrive and flourish.

But on the 25th anniversary of the handover we simply cannot avoid the fact that, for some time now, Beijing has been failing to comply with its obligations. It's a state of affairs that threatens both the rights and freedoms of Hong Kongers, and the continued progress and prosperity of their home.

That's why we've given many Hong Kongers a pathway to reside in the UK. This, after all, is a place where freedom of speech, assembly and association is respected, not criminalised. And so it's no surprise that 120,000 Hong Kongers and their families have already set out down that path.

But we're not giving up on Hong Kong. Twenty-five years ago we made a promise to the territory and its people and we intend to keep it. Doing all we can to hold China to its commitments. So that Hong Kong is once again run by the people of Hong Kong for the people of Hong Kong. And we can all once again look to the future not in sorrow, but in celebration."

On 30 June, then Foreign Secretary, Rt Hon Liz Truss MP, issued the following statement:

"Today marks 25 years since the handover of Hong Kong. China agreed under the legally-binding Sino-British Joint Declaration to uphold Hong Kong's high degree of autonomy and rights and freedoms.

However, we have seen a steady erosion of political and civil rights since the imposition of the National Security Law on 30 June 2020. Authorities have stifled opposition, criminalised dissent and driven out anyone who can speak truth to power.

The United Kingdom's historic commitment to Hong Kong and its people endures. That is why we continue to challenge China for breaching the legally-binding commitments it signed up to under the Joint Declaration. We have called out their conduct on the world stage and stood together with our G7 partners in condemning the steady erosion of political and civil rights and Hong Kong's autonomy.

The UK has opened its doors to the people of Hong Kong looking for a home where their fundamental rights and freedoms are respected. We offered a new immigration path to British Nationals Overseas, and there have been over 120,000 applications for this route.

Twenty-five years on, the UK continues to stand unwaveringly with Hong Kong. We are working with our allies and partners as part of a global network of liberty to hold China to its international obligations."

Chief Executive's Policy Address

On 19 October, Chief Executive John Lee delivered his first annual Policy Address, noting President Xi's 1 July speech would serve as his "governance blueprint". Setting out plans to strengthen national security, Lee noted that the Government would continue its "preparatory work" for the enactment of local legislation to implement Article 23 of the Basic Law. He also pledged to make laws for regulating crowdfunding activities and safeguarding cyber security, and highlighted combatting fake news as an issue to be addressed.

The Chief Executive set out proposals to further implement the "patriots administering Hong Kong" principle, and to promote national education and youth development.

In addition, Lee said the Government would focus on rebuilding Hong Kong's image, attracting talents and enhancing the SAR's competitiveness, as well as increasing the land and housing supply.

High Court Ruling on Non-compliance with Election Rules

Hong Kong's election rules require candidates to submit to the Electoral Affairs Commission (EAC) the written content of any people providing endorsements in election adverts, within one day of the adverts being published. Failure to comply is liable to a maximum penalty of a fine of HKD 5,000 (approximately £550) and six months' imprisonment. During his campaign, Chief Executive John Lee failed three times to submit copies of written consent on time to the EAC. Once elected, Lee filed a petition to the High Court to apply for an exemption from penalties.

On 18 August, the High Court granted an exemption to John Lee on the grounds that the non-compliance was due to "*inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith*". The court concluded that it was "*just*" to waive penalties as Lee's non-compliance was caused by inadvertence. It added that Lee's remedy of the non-compliance was "*prompt*" and no special advantage was gained by Lee. Lee was ordered to pay HKD 64,289 (approximately £6,700) to cover litigation costs.

National People's Congress Standing Committee (NPCSC): Interpretation of the National Security Law

Article 65 of the National Security Law provides that the power of interpretation of the NSL is invested in the NPCSC.

On 28 November the CFA ruled to allow a British barrister to represent Jimmy Lai in his NSL case (further details provided in 'Legal and Judicial Systems' section.) Following this decision on the same day, Chief Executive John Lee requested an interpretation of the NSL be made by the NPCSC, in accordance with Article 65 of the NSL, to clarify whether non-locally registered overseas lawyers can participate in national security cases. The judiciary said it respected the request.

On 30 December, the NPCSC adopted an interpretation of Article 14 and Article 47 of the NSL. This was the sixth interpretation made by the NPCSC. The first five interpretations were of the Basic Law and this was the first interpretation of the NSL.

In a statement, Chief Executive John Lee welcomed the NPCSC’s interpretation noting that it has “*clarified*” several points. It did not explicitly state whether or not foreign lawyers are allowed to handle national security cases. In summary, Lee’s statement on the interpretation said:

- The Committee for Safeguarding National Security in Hong Kong has the power to make decisions on “whether an issue concerning national security is involved”.
- Hong Kong courts should obtain a certificate from the Chief Executive to ascertain “whether an act involves national security”, or “whether the relevant evidence involves State secrets”. The certificate is binding on the courts.
- The question of whether overseas lawyers are allowed to participate in national security cases requires the Chief Executive’s certification under the NSL.
- If the courts have not obtained such a certificate, the Committee should make decision on the above question.

In the same statement, the Hong Kong SAR Government said it would implement the Committee’s decision on the question, and consider amending the relevant Legal Practitioners Ordinance.

In response, the judiciary issued a statement noting that it respected the “*lawful exercise of power*” of interpretation of the NSL by the NPCSC.

Conviction of Pro-democracy Activists and Politicians

The reporting period saw a number of non-NSL prosecutions against pro-democracy politicians and activists. All were found guilty of the charges they faced.

Jimmy Lai

In December 2020, Hong Kong Police charged Jimmy Lai with fraud for allegedly illegally sub-letting 0.16% of the building space of the headquarters of Apple Daily’s parent company, Next Digital. On 25 October, the District Court found Lai guilty. On 10 December, the Court sentenced him to five years and nine months in jail and fined him HKD 2 million (approximately £210,000). District Court judge Stanley Chan Kwong-chi rejected the defence’s argument that the office space in question was insignificant, noting that Lai played an “*important role*”, as the leaseholder, in violating the terms of the lease by concealing the sub-let from the landlord. In addition to this new jail term, Lai continues to be held on remand on NSL charges without bail.

In response to Lai’s sentencing, on 11 December, Minister of State for Indo-Pacific, Rt Hon Anne-Marie Trevelyan MP, said:

“Hong Kong: a sustained effort to target journalists and activists, and the erosion of a once vibrant free media continued. Disappointed to see Jimmy Lai has been further sentenced. He among others have been pursued in an obvious attempt to silence opposition voices.”

612 Humanitarian Relief Fund

The 612 Humanitarian Relief Fund was established during the 2019 anti-extradition protests to crowdsource money to provide medical and legal support to protesters. Five fund trustees, including barrister Margaret Ng Ngoi-yee, former pan-democrat legislator Cyd Ho Sau-lan, singer Denise Ho Wan-see, scholar Hui Po-keung, and 90-year-old Catholic Cardinal Joseph Zen Ze-kiun, were charged for failing to register the fund as a society.

On 25 November, the trustees were found guilty of failing to register the fund under the Societies Ordinance. They were each given a fine of HKD 4,000 (approximately £420).

In response, on 25 November, Minister of State for Indo-Pacific, Rt Hon Anne-Marie Trevelyan MP, said:

“Ongoing harassment of pro-democracy supporters & civil society organisations in Hong Kong, including of Cardinal Zen Ze-kiun is unacceptable. It is vital Hong Kong people are allowed to associate freely without fear of arrest & detention.”

The trustees have appealed against their convictions but as of the end of the reporting period no appeal hearing had been scheduled.

Parliamentary Privilege

On 27 September 2021, the CFA ruled that activities undertaken in the Legislative Council are not immune from prosecution. Following the CFA ruling, a number of former pan-democrat legislators have been tried and received jail sentences for their actions in the chamber.

On 13 December, three former pan-democrat legislators, Lam Cheuk-ting, Helena Wong Pik-wan and Andrew Wan Siu-kin, were sentenced to three to seven weeks in prison for events from 2018-2020. Lam and Wan were convicted of obstructing Legislative Council officers during the Second Reading of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill on 13 June 2018. The Court convicted Wan and Wong of contempt of Legislative Council for their disruptive acts during a House Committee meeting on 8 May 2020, with Wong also convicted for her actions during a meeting on 15 October 2020. Wan was also found guilty of contempt for attempting to vote twice in an election of chairmanship of a Legislative Council panel on 16 October 2020.

As of the end of the reporting period, a total of six former pan-democrat legislators had received jail sentences under the Legislative Council (Powers and Privileges) Ordinance. Three others are still facing similar charges of misconduct in the Legislative Council. Their trials will begin in 2023.

18 August 2019 Protest Conviction Appeals

In April 2021, nine pro-democracy politicians, activists and pan-democrat legislators, including Jimmy Lai, were sentenced to up to 18 months for their involvement in the 18 August 2019 protest, with four given suspended sentences. On 28 November 2022,

seven of them appealed against their convictions and some also against their sentences. They argued that they were not organisers of the assembly. Between 28 and 30 November, a panel of three CA judges heard the leave-to-appeal application. The court adjourned the case with no date set for its verdict.

CONSTITUTION AND ‘ONE COUNTRY, TWO SYSTEMS’

Hong Kong continued to retain significant differences from mainland China, primarily in the economic sphere. However, the mainland Chinese authorities continued attempts to redefine key parts of “Two Systems”. Political plurality reduced almost entirely under the “patriots governing Hong Kong” principle. Legislative by-elections were held, returning a full Legislative Council with no participation from pro-democracy politicians. Prosecutions related to the National Anthem Law took place. The Hong Kong SAR Government introduced an enhanced ‘reward and punishment’ system for civil servants.

20th Party Congress: Hong Kong

At the Chinese Communist Party’s 20th Congress held in Beijing in October, President Xi Jinping in his speeches and report reinforced the themes of his visit to Hong Kong. President Xi said the Central Government would ensure its “*overall jurisdiction over Hong Kong*”, “*a high degree of autonomy*” in the SAR, and that Hong Kong is “*administered by patriots*”.

President Xi described ‘One Country, Two Systems’ as “a great innovation of socialism with Chinese characteristics” and “the best institutional arrangement for ensuring sustained prosperity and stability in Hong Kong”, adding that “this policy must be adhered to over the long term”. He stressed that the Central People’s Government (CPG) would ensure “the capitalist system and way of life remain unchanged in Hong Kong” in the long run. President Xi also reported that he is committed to “law-based governance in Hong Kong” and the SAR’s improvement of its legal and judicial systems.

In particular, President Xi identified the need to further strengthen China’s national security system and capabilities, noting that order in Hong Kong had been “*restored*” after the introduction of the NSL.

Economically, President Xi said the CPG would support Hong Kong in improving its people’s lives, resolving “*deep-seated*” socio-economic issues and integrating into the “*overall development*” of the country, prioritising the Greater Bay Area plan for further regional cooperation and highlighting Hong Kong’s role in realising “*national rejuvenation*”.

Chief Executive John Lee said President Xi’s words were a “*beacon*” for the future development of Hong Kong. Senior Hong Kong SAR Government officials and Hong Kong pro-Establishment figures expressed strong appreciation for Xi’s leadership and his report. Pro-democracy politicians and activists refrained from comment.

Hong Kong Deputies to the National People's Congress

The election for the 14th term of Hong Kong deputies to the National People's Congress (NPC) in Beijing was held on 15 December. A total of 36 Hong Kong deputies to the NPC were elected for a five-year term. Of the 36 elected deputies, 21 were newly-elected and 15 re-elected.

Legislative Council By-elections

Of the Legislative Council's 90 seats, 89 are occupied by pro-Establishment members, with one identifying as non-aligned. The Election Committee selects 40 of the Legislative Council's 90 seats directly from its own membership. In July, four legislators in the Election Committee sector were recruited into the Hong Kong SAR administration, leaving their seats vacant. By-elections took place on 18 December, with 1,307 of the 1,441 Election Committee members voting for six candidates. The remaining pan-democratic political parties, including the Democratic Party, decided not to field candidates.

Separately, on 25 September media reported that the latest number of registered electors for the directly elected Geographical Constituency fell by approximately 60,000 people, from 4.47 to 4.41 million, marking the first drop over the last decade.

National Anthem Law

The reporting period saw the first prosecutions under the National Anthem Ordinance which was introduced in 2020. The law criminalises the use of the anthem for commercial purposes, parodies, or significant alternations of its words and score, with penalties of fines up to HKD 50,000 (approximately £5,500) and custodial sentences of up to three years.

On 10 November, Paula Leung Yan-ling was found guilty and sentenced to three months in jail for insulting the national anthem. She was found to have waved a pre-handover British-Hong Kong flag at a shopping mall during the streaming of the Olympic award ceremony for a local fencer, when the Chinese national anthem was played.

On 14 December, 18-year-old Chui Hoi-chun was sentenced to spend a minimum of six months in a training centre for insulting the Chinese national anthem and flag, and sedition. He was found to have published altered lyrics of the anthem and posted a parody on YouTube.

Reform of Civil Service

In his Policy Address delivered in October, Chief Executive John Lee pledged to strengthen civil service management. Accordingly, the Hong Kong SAR Government announced that all civil servants will have to comply with an updated Civil Service Code, and be governed by an enhanced 'reward and punishment' system.

Secretary for Civil Service Ingrid Yeung Ho Poi-yan said civil servants should practise the "patriots administering Hong Kong" principle with a strong awareness of safeguarding national security. She noted that those who underperformed would have their appointment terminated under the strengthened disciplinary mechanism.

Whilst Yeung said civil servants are allowed to criticise the Hong Kong authorities, at least four civil servants were reportedly arrested for sedition during the reporting period.

LEGAL AND JUDICIAL SYSTEMS

Hong Kong's common law legal system remained under pressure. More NSL and sedition cases concluded in the courts, creating precedent for ongoing and future national security cases. The CFA allowed foreign barristers with relevant qualifications to participate in NSL cases in Hong Kong. As detailed under 'Significant Political Developments' the Chief Executive subsequently submitted a formal request for an interpretation of Articles 14 and 47 of the NSL. Notably, the courts for the very first time allowed a sentencing appeal under the NSL and lifted reporting restrictions on NSL pre-trial proceedings. The use of sedition laws continued to expand considerably, with political opposition convicted and jailed for non-violent speech.

Hong Kong Courts allow British barrister to represent Jimmy Lai in NSL case

Jimmy Lai Chee-ying, founder of Apple Daily newspaper, stands accused of four national security offences – three foreign collusion charges under the NSL, and one charge of sedition under the Crimes Ordinance. His trial was originally scheduled to begin on 1 December 2022.

During a pre-trial hearing on 30 September, Lai's legal team noted they had applied for British barrister Timothy Owen KC to represent Lai, but the application was opposed by the Secretary for Justice and the Hong Kong Bar Association. Under the Legal Practitioners Ordinance, foreign counsels, despite not being members of the local Bar Association, can apply for admission to represent clients in Hong Kong's courts on an exceptional and *ad hoc* basis on the grounds that they have substantial experience in advocacy in a court. Owen, a specialist in criminal, public and human rights law, has appeared before Hong Kong courts in a number of high profile non-NSL cases.

On 19 October, the High Court granted permission for Owen to represent Lai. Judge Jeremy Poon Shiu-chor noted in his judgment:

- "This case will be of immense importance to the development of local jurisprudence on the application of the NSL and the protection of the freedom of expression";
- "Given Mr Owen's undisputed expertise and experience as a specialist in criminal and human rights law, he will undoubtedly **add a significant dimension** to the case."; and
- "In sum, it is **clearly in the public interest** to admit an overseas specialist as eminent as Mr Owen so that the court will have the best assistance to tackle the formidable task at hand."

On 27 October, the Department of Justice (DoJ) filed an appeal to the CA, arguing that Owen "*does not have or profess to have expertise or experience*" in NSL-related issues and there is "*substantial experience*" within the local Bar to handle the case.

On 9 November, the CA upheld the High Court's decision to allow Owen to defend Lai, dismissing the appeal. In their judgment, a panel of three judges highlighted:

1. The context of the NSL, which prosecutors described as "unique", should not take precedence over public interest. Whether or not overseas counsels possess NSL-specific knowledge is not a deciding factor in their admission.
2. International jurisprudence, derived from other common law jurisdictions, is relevant to the NSL in Hong Kong, and is important for balancing safeguarding national security with protecting freedom of expression.
3. The NSL and the Basic Law share "a special constitutional status" in Hong Kong. Overseas counsels, having long been admitted to take Basic Law cases, can also be admitted to take NSL cases. Overseas counsels can help develop Hong Kong's jurisprudence in the NSL.
4. Public perception of fairness of Jimmy Lai's trial is "of vital importance to the administration of justice". His trial "involves the resolution of legal issues of great general public importance that would impact substantially on the development of NSL jurisprudence".

On 15 November, the DoJ applied to the CA for leave to appeal to the CFA, with its legal representative, former Secretary for Justice Rimsky Yuen Kwok-keung arguing that:

- The NSL is a unique mainland Chinese law, and overseas jurisprudence has no relevance;
- The admission of overseas counsels is "*incompatible with the overall design and objective of the NSL*", which was enacted to address foreign interference in Hong Kong affairs; and
- The local Bar Association lacks a mechanism to deal with misconduct of overseas counsels, such as disclosing state secrets.

On 21 November, the CA rejected the leave application. It held that overseas learning and foreign counsel contribute to the development of Hong Kong's jurisprudence on national security. The CA noted that the issue of possible disclosure of state secrets is hypothetical and irrelevant in Lai's case, and that foreign counsel are governed by a similar code of conduct. The court warned that the DoJ was seeking to "*fetter and curtail the statutory discretion of the court*" and "*establish matters of principle*", describing its approach as "*unprincipled*".

On 22 November, the DoJ applied for leave to the CFA. At the same time, People Republic of China's (PRC) party-state media outlets Wen Wei Po and Ta Kung Pao criticised the CA decision, with heavyweight pro-Establishment politicians suggesting that China's NPCSC would need to interpret the NSL if admission of overseas lawyers was allowed in NSL cases.

On 28 November, the CFA dismissed the application on technical grounds, allowing Timothy Owen KC to defend Jimmy Lai in his national security trial. The CFA ruled

that the DoJ raised “*radically new*” arguments in its application that had not been considered by the lower Courts, resulting in unfairness to the defendant.

Extension of Term of UK Non-permanent Judge on the Court of Final Appeal

Ten (retired) overseas non-permanent judges from common law jurisdictions sit in the CFA, including six from the United Kingdom, three from Australia and one from Canada.

On 7 October, Chief Executive John Lee accepted the recommendation of the Chief Justice and extended the term of office for three years of retired UK judge, Rt Hon Lord Jonathan Sumption as a non-permanent CFA judge.

Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law)

On 8 August, China’s State Council confirmed the appointment of Sonny Au Chi-kwong as Secretary General of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region. Au, formerly Under Secretary for Security, succeeded Eric Chan Kwok-ki, now the Chief Secretary for Administration.

According to Hong Kong Police statistics, from the introduction of the NSL on 30 June 2020 until 31 December 2022, a total of 236 people have been arrested for NSL offences and over 140 charged.

Between 1 July and 31 December 2022, at least three NSL cases concluded. All were tried without jury, and all 15 defendants found guilty. All NSL cases tried so far have been tried without jury and all defendants found guilty.

“Returning Valiant”

On 8 October, five teenage members of the pro-independence group “Returning Valiant”, including minors, were sentenced to up to three years of detention in a training centre for conspiracy to incite subversion. The five were found to have set up street booths and distributed materials calling for an “*armed uprising*”. During sentencing, District Court judge Kwok Wai-kin noted that the defendants’ messages could have turned peaceful demonstrators violent, “*even though there was no evidence of anyone being incited*”. The five had been in custody since their arrests in September 2020. Two remaining adult defendants in this case will be tried in February 2023.

“Student Politicism”

On 22 October, the District Court sentenced three members of the student group “Student Politicism” to up to three years in jail, and another group member to a training centre, for conspiracy to incite subversion. The four were found to have used street booths to spread messages promoting Hong Kong independence. Judge Kwok Wai-kin noted that despite no one being incited, the group’s actions might have led children into the thinking that Hong Kong is not part of China.

Apple Daily

On 22 November, six former Apple Daily staff pleaded guilty and were convicted of conspiracy to commit collusion with a foreign country. The six were found to have published journalistic articles calling for foreign sanctions against China and Hong Kong. They were also convicted of conspiracy to publish seditious publications. The High Court adjourned sentencing until the conclusion of Jimmy Lai's NSL trial, as some of the defendants will testify in his case.

Procedural Fairness: NSL Sentencing Appeals

The Court of Appeal (CA) heard two sentencing appeals under the NSL during the reporting period.

Adam Ma Chun-man

Adam Ma Chun-man was convicted of incitement to secession and sentenced to five years and nine months in prison in November 2021 for chanting pro-independence slogans in public. He appealed against his sentence and on 3 August, the CA allowed Ma's appeal – the first ever under the NSL – and reduced his sentence to five years. The court maintained that Ma's offence was of “*a serious nature*”, but the original sentence was “*excessive*”.

Lui Sai-yu

University student Lui Sai-yu was found to have posted messages on social media supporting Hong Kong independence. On 29 April 2022, the District Court sentenced Lui to five years for incitement to secession – the mandatory minimum sentence for “serious” national security crimes under the NSL. Lui appealed against his sentence, arguing that the court should have given a one-third discount for his guilty plea according to Hong Kong law.

On 30 November, the CA dismissed Lui's appeal and upheld the five-year mandatory minimum, ruling his case was “serious” and that the minimum of five years' imprisonment is mandatory for serious offences. The court noted that local sentencing laws must “*operate in tandem with the NSL*” to safeguard national security, and priority should be given to the NSL.

In particular, the CA judgment highlighted that mainland law, although it was not used in this case, can apply when interpreting the NSL. The three presiding judges cited a previous CFA ruling that there should be “*convergence, compatibility and complementarity*” between the NSL, the relevant national laws and local laws of the Hong Kong SAR.

Procedural Fairness: NSL Reporting Restrictions

Media reporting of pre-trial proceedings (also known as committal proceedings) is strictly prohibited under Hong Kong law. The reporting ban can be lifted at the request of the accused.

Chow Hang-tung

On 30 May, former Hong Kong Alliance vice chair, Chow Hang-tung, charged with inciting subversion under the NSL, applied for a Judicial Review of the decision to reject her February 2022 application for reporting restrictions to be removed. She argued that the Principal Magistrate, Peter Law Tak-chuen, had “subverted” the principles of open justice by “*turning the right to a public trial into a privilege*” in his April ruling.

On 2 August, the High Court overturned the lower Court’s decision. Judge Alex Lee Wan-tang ruled that magistrates handling committal proceedings have no discretion to refuse lifting of reporting restrictions upon application by a defendant. In his judgment, Lee rejected the DoJ’s argument that, given the post-NSL legal context in Hong Kong, English case law was not applicable in this case. Instead, he cited Articles 4 and 41 of the NSL to suggest that press freedom and open trials are guaranteed under the law. Lee also dismissed the DoJ’s argument that open reporting would undermine fundamental rights and judicial fairness as “*exaggerated and untenable*”.

Procedural Fairness: Non-NSL Covid-19 vaccination exemptions

The last reporting period saw a large outbreak of Covid-19 in Hong Kong. On 27 September, the Hong Kong SAR Government, in a press release announced its decision to invalidate approximately 20,000 Covid-19 vaccination medical exemption certificates. The authorities suggested that seven registered doctors had allegedly abused the system by issuing exemptions without medical examinations, and the certificates issued by them accounted for over half of those issued in total in Hong Kong.

On 10 October, Kwok Cheuk-kin brought a Judicial Review challenging the Government’s decision, arguing that the Secretary for Health, Lo Chung-mau, had no legal power to declare certificates invalid. On 21 October, Kwok won the case. High Court Judge Russell Coleman ruled that the Hong Kong Government lacked a legal basis to invalidate the vaccine exemptions in question.

On 25 October, the government issued a new press release announcing that it would not appeal the ruling, but would instead amend relevant Covid-19 regulations to “*provide a clear legal basis*” to invalidate the exemption certificates. The amendments were gazetted the same day, and passed by the Legislative Council on 26 October, coming into effect immediately.

On 27 October, Kwok launched a Judicial Review against the Government’s legal amendment, arguing that there was no appeal mechanism under the revised regulations over invalidated exemptions. The High Court dismissed his application, with Judge Coleman noting that doctors who had their certificates invalidated can challenge the decision by way of written representations. He highlighted that the government’s acceptance of his previous ruling was “*an example of the rule of law in action in Hong Kong*”.

Use of Sedition Laws

Colonial-era sedition offences still remain in place in Hong Kong. This reporting period saw a continued expansion of the use of sedition laws in Hong Kong, with more people being prosecuted for making allegedly seditious comments online. Notably, like the NSL, sedition offences began to exert extraterritorial effects.

At least 33 people were arrested or convicted for sedition between 1 July and 31 December. They included a radio DJ, a veteran activist, civil servants, university students and others.

At least 24 people were convicted for sedition during the reporting period.

Notable **convictions** included:

Koo Sze-yiu

On 12 July, veteran activist Koo Sze-yiu, who had allegedly planned a protest at the Central Government Liaison Office (CGLO) against the Beijing Winter Olympics Games, was found guilty of sedition. He was sentenced to nine months in jail, for “*attempting to do or making preparations to do an act or acts with seditious intention*”.

Speech therapists

On 10 September, five speech therapists were sentenced to 19 months in jail for conspiring to produce seditious publications. Prosecutors said the defendants had incited hatred against the mainland Chinese and Hong Kong authorities, by publishing children’s books that allegedly depicted Hong Kong political events using sheep and wolves. District Court Judge Kwok Wai-kin ruled that those books had a “seditious intention”, which leads “*the children to look down on the Chief Executive of HKSAR with contempt*”, and “*not to trust the administration of justice in Hong Kong and look down upon the police, the prosecution and the court with contempt*”.

The five had been in custody without bail since August 2021 and completed their jail term on 10 October. Two of them have appealed their convictions. As of the end of the reporting period, no hearing date had been set.

Wan Yiu-sing

On 7 October, internet radio host Wan Yiu-sing was sentenced to 14 months in prison for sedition. Wan was found to have produced online radio programmes advocating Hong Kong independence and inciting people to overthrow the Chinese Communist Party. Prosecutors argued that his programmes incited hatred against the PRC and Hong Kong authorities, as well as promoting “*feelings of ill-will and enmity between different classes of the population of Hong Kong*”. Wan has been in custody since February 2021.

Chiu Mei-ying and Garry Pang Moon-yuen

On 27 October, Chiu Mei-ying, and Christian pastor Garry Pang Moon-yuen, were sentenced to three months and 12 months respectively for sedition. The duo were

found to have “caused nuisance” during court hearings by applauding barrister Chow Hang-tung during her trial, which prosecutors said incited disobedience of the court.

The court ruled that the “utterances” made by both defendants during Chow’s trial had a seditious intent to “*bring into hatred and contempt against the administration of justice in Hong Kong*”. The court noted that Pang “*demeaned the magistrate*” by openly criticising her for “*lacking conscience*”, and Chiu accused the magistrate of “*non-compliance with the law, deciding the case arbitrarily, out-of-line behavior and delivering unfair judgment*”, adding that their words were “not a slip of tongue”.

Chiu was released on bail pending appeal and as of the end of the reporting period no hearing date had been set. Pang had been in custody since April and completed his 12-month jail term in December.

Chui Hoi-chun

On 14 December, 18-year-old Chui Hoi-chun, charged with sedition and insulting the Chinese national anthem and flag, was sentenced to three years of detention in a training centre. Under his sedition charge, Chui was found to have published online posts overseas advocating Hong Kong independence and inciting enmity against mainland China. Chui left Hong Kong in October 2019 and returned to the city in November 2020, with prosecutors backdating his offence to as early as May 2020. Chief Magistrate Victor So Wai-tak ruled that Chui’s posts, despite the majority of them being published outside of the SAR, targeted audiences in Hong Kong and thus the seditious activity “happened in Hong Kong”. This case marked the first ever conviction for seditious acts committed outside of Hong Kong.

Protest Convictions

According to Hong Kong Police statistics, from 9 June 2019 to 31 October 2022, a total of 10, 279 people were arrested in relation to the 2019 anti-Extradition Bill protests, with 2,915 charged and 1,391 convicted. There were still about 7,000 arrestees on police bail, pending investigation.

12 Hong Kongers (Shenzhen 12)

12 Hong Kongers aged between 16 and 33, including pro-democracy activists, were arrested in August 2020 by the Guangdong Coast Guard for allegedly entering mainland Chinese waters illegally via speedboat, while trying to leave Hong Kong. They were detained and tried in mainland China. All but one have served their sentences there and have now returned to Hong Kong.

As the group were facing prosecution in Hong Kong in connection with the 2019 protests, defendants upon their return to Hong Kong were additionally charged with perverting the course of justice for failing to surrender to custody. Three were not given this extra charge as they pleaded guilty to more serious charges.

On 15 July, seven defendants were jailed for ten months after pleading guilty to perverting the course of justice. Another defendant facing the same offence will enter a plea in January 2023.

Police use of force during anti-extradition protests

On 29 December, the Independent Police Complaints Council (IPCC) published its annual report. The report only provided a brief account of relevant measures the Hong Kong Police have adopted to address the IPCC's 2020 recommendations, including on the use of force during the 2019 anti-extradition protests. The IPCC concluded that it was "*pleased to see that the police had been receptive to the recommendations*".

Police identification

In April 2020, the Hong Kong Journalists Association (HKJA) brought a Judicial Review of the Hong Kong Police Force's use of identification during the 2019 anti-extradition protests. On 19 November, the High Court ruled that the Hong Kong Police had failed to display their unique identification numbers, amounting to a breach of the Hong Kong Bill of Rights. On 17 December, the police appealed against the court ruling on its failure to show identification, citing new evidence.

On 16 September 2022, the CA granted the police's application to submit new evidence, noting that the relevant additional evidence "*would probably have an important influence*" on the previous ruling. Judges Jeremy Poon Shiu-chor and Susan Kwan Shuk-hing said the case involves a strong public interest, and "*other protestors, observers and police officers have a significant interest in the outcome*". As of the end of the reporting period, no date had been set for the appeal hearing.

BASIC RIGHTS AND FREEDOMS

In July, the UN Human Rights Committee (UNHRC) published its report on the implementation of the International Covenant on Civil and Political Rights in Hong Kong, calling on the Hong Kong authorities to repeal the NSL and sedition laws. Freedom of speech and assembly continued to be curtailed. The High Court ruled that the Hong Kong Police lacked a legal basis for banning the commemoration of the Tiananmen Square massacre on public health grounds. Freedom of the press was targeted and further constrained, with multiple international and local media outlets refused entry to the 1 July founding of the Hong Kong SAR ceremony. A new requirement relevant to NSL violations was introduced for trade union registration. All public school teachers are required to pass tests on both the Basic Law and the NSL before being appointed.

Implementation of the United Nations International Covenant on Civil and Political Rights (ICCPR) in Hong Kong

The United Nations International Covenant on Civil and Political Rights (ICCPR) came into force in Hong Kong in 1976. The Hong Kong Bill of Rights Ordinance gives effect in local law to the relevant provisions of the ICCPR as applied to Hong Kong. The Hong Kong SAR Government is required to report directly to the United Nations on this international human rights treaty. The Hong Kong authorities have so far submitted four reports to the UN, with the latest one submitted in September 2019.

Between 7 and 12 July, the UNHRC reviewed Hong Kong's ICCPR implementation. This was the first review after the National Security Law was introduced in June 2020.

During the three-day session, the UNHRC expressed concerns over the use of the NSL and sedition laws in Hong Kong.

On 27 July, the UNHRC published its concluding observations and recommendations. The committee called on the Hong Kong authorities to “*take concrete steps*” to repeal the NSL and sedition laws, to refrain from applying them, and to immediately stop applying NSL procedure to sedition cases. The committee also called on the authorities to prevent all forms of excessive use of force by law enforcement officers and strengthen the independence of the judiciary. The conclusions also expressed concerns over the adverse effects of the NSL on the exercise of freedom of expression.

In response, the Hong Kong SAR Government expressed strong opposition to the UNHRC conclusions, describing them as “*unfair criticisms*”. This was echoed by the Ministry of Foreign Affairs of the PRC and the Hong Kong Macao and Affairs Office in Beijing, and the CGLO in Hong Kong.

On 28 July, then Minister of State for Asia and the Middle East, Rt Hon Amanda Milling MP, said:

“We welcome the new UN Human Rights Committee Report which makes clear the damage the NSL has done to rights in #HongKong.

These are serious concerns, from independent experts and I urge the authorities to engage fully with the recommendations.”

Press and Media Freedom

Media denied access to 1 July ceremony

Prior to John Lee’s inauguration ceremony as Chief Executive and events marking the 25th anniversary of the establishment of Hong Kong SAR on 1 July, several international and local news outlets were refused entry on the grounds of public health and security. Both the Hong Kong Journalists Association and Foreign Correspondents Club (FCC) expressed their concerns. Reporters Without Borders said it was “appalled” by “the regime’s increasing censorship.”

Hong Kong Journalists Association (HKJA)

On 23 September, the HKJA released the Hong Kong Press Freedom index 2021. Hong Kong dropped to a record low for the third year in a row, with 97% of the 169 journalists who responded saying press freedom in Hong Kong had worsened compared to the previous year. 93% believed that the Hong Kong SAR Government was responsible for the suppression of press freedom.

In a statement, the HKJA said the environment for news reporting in Hong Kong had “drastically deteriorated over the past year”. It noted that “*as a direct consequence of a shrinking news industry, less information of public interest is now available, and those that remain accessible become more homogenous than diverse*”.

The HKJA subsequently removed all of its annual reports from its website, citing political pressure.

International Federation of Journalists (IFJ)

On 14 October, the IFJ published its Hong Kong Press Freedom of Expression Report 2022. The IFJ said the report would normally be published by the HKJA, but it “*remains under intense scrutiny by Beijing*”.

The IFJ noted that it had witnessed “*the dramatic collapse of press freedom and independent media in Hong Kong*”, and the large number of media closures was “*unprecedented in the history of Hong Kong*”. The report cited the National Security Law as the major reason.

Prosecutions against Journalists

Ronson Chan Ron-sing

On 7 September, Ronson Chan Ron-sing, HKJA chairman, was arrested for allegedly obstructing police officers and disorderly conduct in a public place. He was accused of refusing to show his identity card to the police, whilst he was reporting for an online news outlet. The HKJA issued a statement expressing “*deep regret*” over the arrest. Chan was officially charged on 19 September, with bail granted by the court. He was given permission to travel to the UK for a six-month fellowship programme. His case was adjourned until May 2023.

Bao Choy Yuk-ling

On 7 November, the High Court dismissed an appeal by former Radio Television Hong Kong (RTHK) producer Bao Choy Yuk-ling against her conviction for making a false statement as to why she obtained vehicle licensing information from a publicly accessible database under the Road Traffic Ordinance. Choy had been investigating police misconduct during a 2019 incident at Yuen Long. She was given a fine of HKD 6,000 (approximately £650) for the breaches in 2021. On 18 November, the High Court granted Choy the leave to appeal to the CFA. An application hearing by the CFA is set for 17 January 2023.

Foreign Correspondents’ Club (FCC)

Media reported rumours that the Hong Kong SAR Government was not renewing the lease of the FCC in Hong Kong, which was due to expire in January 2023. FCC President Keith Richburg confirmed in October that the Hong Kong authorities had not yet made a decision on the club’s lease extension.

On 30 November, the club announced that it had secured an extension to the lease for three years until 1 January 2026. The club noted that the renewal contains “*standard clauses*” which allow the government to terminate the lease on national security grounds.

Hong Kong SAR Government Response to International Media

During the reporting period, the SAR Government continued to write to international news outlets in response to their editorials on Hong Kong affairs. Notable examples included:

- 14 July: Chief Secretary Eric Chan Kwok-ki wrote to *The Wall Street Journal* refuting its editorial entitled “Hong Kong’s Coming Religious Crackdown”.
- 22 October: Chan wrote to *Bloomberg* expressing “grave concern” at its article about the Hong Kong authorities cancelling the screening of a film on national security grounds.
- 5 November: Chan expressed opposition to a *Wall Street Journal* entitled “Wall Street’s Hong Kong Kowtow”, after top business leaders attended the Global Financial Leaders’ Investment Summit in Hong Kong.

Freedom of Assembly

Covid-19 restrictions remained in place during the reporting period but were reduced incrementally. On 29 December, the Hong Kong SAR Government officially lifted all social distancing measures, ending its two-year-nine-month ban on public gatherings.

Ruling on Group Gatherings

In 2020, police banned a rally traditionally held on 1 May to mark Labour Day in Hong Kong, citing Covid-19 concerns. Eight activists nonetheless gathered outside Government Headquarters to stage a protest about unemployment subsidies, organising themselves into two groups of four 1.5 metres apart from each other. The police charged them for violating the ban on public gatherings.

In March 2021, a Magistrates’ Court convicted all eight defendants of breaching social distancing rules, giving each suspended jail sentences of 14 days. The eight appealed their convictions and sentences, arguing that they strictly followed the rules to exercise their rights under the Bill of Rights and the Basic Law.

On 18 October, the High Court upheld the original court’s decision. In dismissing the appeal, Judge Albert Wong Sung-hau noted that the defendants had taken part in a banned group gathering with a clear “*common purpose*”. He said the gathering posed a threat to public health, regardless of whether or not social distancing rules were followed. Wong stressed that the protesters were free to express their views, and the ban only restricted the form in which they could protest. Seven of the eight defendants subsequently appealed their convictions. The leave application was rejected by the High Court on 29 December.

Remembrance of the Tiananmen Square Massacre

For over 30 years, the Hong Kong Alliance organised an annual vigil on 4 June in Hong Kong’s Victoria Park to remember the victims of the 1989 Tiananmen Square Massacre. Police refused permission for the annual vigil in Victoria Park in 2020, 2021 and 2022 citing Covid-19.

On 4 June 2021, police arrested Chow Hang-tung, former Hong Kong Alliance vice chair, for allegedly promoting unauthorised assembly. The same day the Hong Kong Police invoked the Public Order Ordinance to close several parts of Victoria Park, and the Security Bureau released a statement warning people not to enter.

In January 2022, a Magistrates' Court found Chow guilty of inciting people to attend the 2021 vigil, and sentenced her to 15 months in prison. Chow subsequently appealed against her conviction and sentence.

On 14 December, the High Court overturned Chow's conviction and sentence. Judge Judianna Wai Ling Barnes ruled that even though Chow did appeal for the public to assemble at Victoria Park, her action was "*not illegal*" as the legality of the police ban under the Public Order Ordinance was not "*established*". Barnes noted that police "*did not exercise their responsibility*" in allowing and facilitating the assembly in accordance with the Ordinance. She held that the police "*did not take an initiative*" to consider "*a series of feasible measures or conditions*" to control the actual risk of the spread of Covid-19, even though the organisers "*had expressed their willingness to comply with any reasonable requests of the police*". The court added that there was no evidence in this case to show that the organisers were incapable of implementing any relevant measures. In the same month the DoJ filed an appeal to the CFA, with an application hearing by the High Court set for 19 January 2023.

National Security Requirement for Trade Union Registrations

The SAR Government's Registry of Trade Unions regulates trade unions in Hong Kong under the Trade Union Ordinance and relevant registration regulations. On 16 September, the authorities introduced a requirement for trade unions applying for registration to sign a declaration pledging compliance with relevant Hong Kong laws, including the NSL. Applicants signing the declaration must confirm that their trade unions have lawful purposes and will not endanger national security. The Labour Department said this new rule does not apply to existing registered trade unions, but warned that they have to comply with relevant local laws. In October, a speech therapists' union was delisted under the Trade Unions Ordinance, after five of its members were accused of publishing seditious children's books.

Equality

During the reporting period there was a high-profile court case challenging the legal status of same-sex marriage partnerships and LGBT rights in Hong Kong.

On 22 November 2018, human rights activist Jimmy Sham Tsz-kit launched a Judicial Review to challenge the constitutionality of statutory provisions under the Marriage Ordinance and Matrimonial Causes Ordinance, arguing they violated his right to equality, as guaranteed by Article 25 of the Basic Law, by not recognising his same-sex marriage, registered in New York. The High Court dismissed the case on 18 September 2020, concluding that his application was "*too ambitious*".

In July 2022, Sham filed an appeal to the CA, arguing that differential treatment from heterosexual couples violated the right to equality under Article 25 of the Basic Law and Article 22 of the Hong Kong Bill of Rights. The appeal was rejected by a panel of

three CA judges on 24 August. They held that Article 37 of the Basic Law “*only provides access to the institution of marriage to heterosexual couples*”, not same-sex relationships. On 10 November, Sham was given leave to appeal the verdict at the Court of Final Appeal (CFA). The three CA judges agreed that the questions raised by Sham are “*of great general public importance that ought to be determined by the CFA.*” As at the end of the reporting period, no date had been set for the CFA hearing.

Education

On 24 October, the Education Bureau announced that from the 2023/2024 academic year all teachers in public schools (including kindergartens) will have to pass tests on the Basic Law and the National Security Law before being appointed. The first round of the tests took place on 3 December.

OTHER REPORTS

On 8 September, the Fraser Institute’s Economic Freedom of the World 2022 Annual Report ranked Hong Kong as the world’s freest economy. The report was based on data for 2020. Despite the top ranking, it noted that Hong Kong’s overall score fell significantly and the decline was “*much larger than the world’s average decline*”. The report warned that “*much of this decline was related to China’s new harsh policies in Hong Kong*”.

On 26 October, the World Justice Project published its Rule of Law Index 2022. Hong Kong was ranked 22nd out of 140 countries and territories globally, falling three places from 2021. Hong Kong’s score for constraints on government powers dropped from 45th to 54th, and the scores for fundamental rights and criminal justice dropped from 54th to 61st, and from 18th to 22nd.

On 15 November, the US Congress issued its US-China Economic and Security Review Commission Report. The report noted that Hong Kong “*became increasingly isolated and further subordinated under Beijing’s control*”. It also highlighted that the SAR’s security authorities “*continued their assault on Hong Kong’s freedoms while the economy suffered from restrictions guided by Chinese government direction*”. The report added that the Hong Kong SAR Government “*is moving to a legal system that increasingly mimics that of the Mainland*”, threatening prospects for journalists and civil society as well as foreign businesses in the territory.

On 16 November, the US Congressional-Executive Commission on China (CECC) annual report criticised Beijing’s “*aggressive dismantling of Hong Kong’s democratic freedoms, free press, and civil society and use of the National Security Law to arbitrarily detain pro-democracy advocates*”. In addition, the CECC published a special report on Hong Kong’s civil society in October. The report highlighted that the PRC Government has “*dismantled*” the SAR’s civil society, and concluded that “*the two years of the National Security Law crackdown have had a devastating effect on Hong Kong’s once-dynamic civil society*”.

ECONOMY AND MONETARY SYSTEMS

The Joint Declaration set out that the social and economic systems in Hong Kong will remain unchanged following the handover. Whilst the political, judicial and legal systems have undergone significant change in recent years, Hong Kong's capitalist economic system, as set out in the Joint Declaration, remains intact and robust. The Chief Executive's Policy Address in October set out the administration's more proactive approach to steering economic development, with a focus on attracting talent and business back to the region.

Economy, Customs & Trade

The Hong Kong SAR Government continued to maintain free market economic and trade systems during the reporting period, retaining autonomy in deciding their economic and trade policies. Rights concerning the ownership of property, including those relating to acquisition, use, disposal, inheritance and compensation for lawful deprivation continued to be protected by law.

The Hong Kong SAR Government continued to pursue a free trade policy, including the free movement of goods and capital. Hong Kong continued to operate as a separate customs territory during the reporting period. It did not levy tariffs on the import or export of goods, with the exception of four commodities (hard alcohol, tobacco, hydrocarbon oil, and methyl alcohol), retaining its status as a free port. It participated in relevant international organisations and international trade agreements such as the World Trade Organisation.

On 26 September, the Hong Kong SAR Government lifted the requirement for travellers arriving in Hong Kong to stay in mandatory hotel quarantine, which was introduced in 2020. This allowed easier access for overseas visitors to attend conventions in Hong Kong, enabling the development of further trade links.

The Hong Kong SAR Government continued to manage their own financial resources, with fiscal policies largely focussed on pandemic recovery in the reporting period. Between July and October a second round of 'consumption vouchers' for Hong Kong residents was made available, to be spent at retail and hospitality venues.

Monetary & Financial Policy

The SAR remained an international finance centre. On 5 July, the Hong Kong Stock Exchange launched a Hong Kong International Carbon Market Council, which will focus on developing its market infrastructure, products and services.

Hong Kong's monetary and financial systems continued to be internationally recognised through Hong Kong's four major independent regulators. Between 1-3 November, the Hong Kong Monetary Authority held the Global Financial Leaders' Investment Conference to discuss issues of common interest to the financial sector, attracting 200 international and regional leaders from 120 financial institutions.

The Hong Kong SAR Government continued to have sole discretion over its monetary and financial policies, safeguarding the free operation of financial business and the free flow of capital within, into and out of the jurisdiction. No exchange control policy

was applied to the SAR in the reporting period. The authority to issue Hong Kong currency remained vested in the Hong Kong SAR Government. The Hong Kong dollar continued to circulate as the local tender and was not subject to capital controls. Markets for foreign exchange, gold, securities and futures continued free of interference.

UK/HONG KONG BILATERAL RELATIONS

British National (Overseas)

On 25 August, the Home Office published the latest UK immigration statistics. Since the BN(O) immigration route was launched on 31 January 2021, until 30 June 2022, there were approximately 140,500 applications, with 133,124 visas granted.

On 30 November, the UK Government expanded the BN(O) immigration route to allow individuals aged 18 or over who were born on or after 1 July 1997 and who have at least one BN(O) parent to apply independently of their parent.

The Hong Kong SAR Government continued to not recognise the BN(O) passport.

Trade and Investment

Hong Kong represents the UK's 14th largest global trading partner, having accounted for 1.6% of total UK trade in the four quarters to the end of December 2022. Total trade in goods and services (exports plus imports) between the UK and Hong Kong SAR was £26.7 billion in the four quarters to the end of December 2022, an increase of 11.2% or £2.7 billion from the four quarters to the end of December 2021. Of this £26.7 billion, UK exports accounted for £15.2 billion.

On 26 September, the Hong Kong SAR Government lifted the requirement for travellers arriving in Hong Kong to stay in mandatory hotel quarantine, which was introduced in 2020.

Culture

The British Council delivered 22,574 International English Language Testing System tests between July and December 2022.

In September, the British Council held its first hybrid promotional event for 40 UK higher education institutions, with participation of over 2,400 prospective students.

In November, a webinar was held to assess the potential for international partnerships with Hong Kong. The online event attracted 110 UK institutions.

In December, London's Victoria and Albert Museum held an exhibition in Hong Kong, as part of its Asia tour.

CONCLUSION

Hong Kong's high degree of autonomy and rights and freedoms are set out in the Sino-British Joint Declaration. 25 years on from the handover, China remains in a state of ongoing non-compliance with this treaty. Hong Kong's freedoms have been curtailed, critical voices silenced and the space for free press and assembly reduced. The

National Security Law and the ongoing use of the outdated offence of sedition continues to damage Hong Kong’s way of life. The UN ICCPR report highlights serious concerns from independent experts and stresses Hong Kong must restore genuine rights and freedoms. We urge the authorities to engage fully with the recommendations. The UK will continue to stand up for Hong Kongers and honour our responsibilities as co-signatory to this legally binding treaty. Alongside our international partners, we will continue to lead efforts to scrutinise the Chinese Government’s actions. China freely entered into the Joint Declaration. It set a strong and sustainable basis for Hong Kong’s future stability and prosperity. We call on China to honour their commitments.

LIST OF ABBREVIATIONS

British National (Overseas)	BN(O)
Congressional-Executive Commission on China	CECC
Central Government Liaison Office	CGLO
Court of Appeal	CA
Court of Final Appeal	CFA
Central People’s Government	CPG
Department of Justice	DoJ
Electoral Affairs Commission	EAC
Foreign Correspondents’ Club	FCC
Hong Kong Journalists Association	HKJA
Hong Kong Special Administrative Region	HKSAR
International Covenant on Civil and Political Rights	ICCPR
International Federation of Journalists	IFJ
Independent Police Complaints Council	IPCC
National People’s Congress	NPC
National People’s Congress Standing Committee	NPCSC
National Security Law	NSL
People’s Republic of China	PRC
Special Administrative Region	SAR
United Nations	UN
United Nations Human Rights Committee	UNHRC