

# UN Human Rights Experts to Hong Kong Gov't: Take Steps to Repeal the National Security Law & Stop Applying It Now

HRIC Statement  
July 27, 2022



The UN Human Rights Committee tells the Hong Kong SAR government to “[t]ake concrete steps to repeal the current National Security Law and, in the meantime, refrain from applying the Law.” The urging is among an extensive series of concerns and recommendations the Committee detailed in its [Concluding Observations](#) published today. It is the Committee’s final assessment of its recent comprehensive review of the Hong Kong government’s implementation of the International Covenant on Civil and Political Rights (ICCPR). (See videos of the Committee’s Interactive Dialogue with the Hong Kong delegation: [July 7](#), [July 8](#), [July 12](#), which formed a key part of the review.)

“The concerns expressed by the Committee’s experts highlight the grave deterioration in the human rights situation in Hong Kong and the systemic failure of the Hong Kong SAR government to comply with its treaty obligations to protect the exercise of key fundamental rights by Hong Kong people,” said **Sharon Hom**, Executive Director of Human Rights in China. “Further, the non-responsiveness of the Hong Kong delegation and its reiteration of the official narrative during the review point to the fact that the Hong Kong SAR government has not just failed to protect those rights, but has actively deployed law, policy, and law enforcement power to crush them.”

The Committee’s concerns and recommendations—spanning a wide spectrum of structural, legal, and implementation issues and accompanied by supporting information—include the following (all emphases have been added; paragraph numbers refer to those in the “Concluding Observations”):

## Constitutional and legal framework

### Concerns

“[T]he Committee is deeply concerned that the [National Security Law] prevails over other local laws [and] overrides fundamental rights and freedoms protected by the Covenant.” (para. 4)

### Recommendation

The Hong Kong government “should ensure that the Covenant prevails over local legislation and laws applicable in Hong Kong, including the National Security Law, and . . . ensure that all the interpretations, including those by the Standing Committee, of the Basic Law and all other laws applicable in Hong Kong, and practices are in full conformity with the Covenant.” (para 5.)

## National Security Law

### Concerns

(1) The “National Security Law was passed by the National People’s Congress of the People’s Republic of China without consultation with the public and civil society in Hong Kong, China. The Committee is deeply concerned about the overly broad interpretation of and arbitrary application of the Law, reportedly leading to the arrests of over 200 persons since its enactment in 2020, including 12

children, on grounds of endangering national security, with 44 of the convictions of 12 persons under the Law not falling within the four categories of offences specified therein. Furthermore, it is concerned that, despite article 4 of the Law guaranteeing respect and protection of human rights in safeguarding national security, the application of the Law and the Implementation Rules for Article 43 of the National Security Law (“the Implementation Rules”) have unduly restricted a wide range of Covenant rights.” (para. 12)

(2) The “excessive power of the Chief Executive and other measures provided for in the Law, which can effectively undermine the independence of judiciary and procedural safeguards for access to justice and right to a fair trial . . . .” (para. 13)

### Recommendation

“Take concrete steps to repeal the current National Security Law and, in the meantime, refrain from applying the Law . . . .” (para. 14)

## State of Emergency

### Concerns

The “unfettered power conferred on the Chief Executive to make regulations without any effective vetting procedures through the legislature . . . .” (para. 17)

### Recommendation

[R]evise the Emergency Regulations Ordinance with a view to bringing it into full compliance with article 4 of the Covenant and the Committee’s general comment No. 29 (2001) on states of emergency (article 4).” (para. 18)

## Right of peaceful assembly and excessive use of force

### Concerns

(1) The “excessive and indiscriminate use of less lethal weapons and chemical substances, including rubber pellets, sponge bullets, tear gas and water cannons containing chemical irritants, against unarmed protesters including pregnant women, bystanders, commuters and journalists during protests from July to November 2019.” (para. 19)

(2) “[T]he instruction given by the commander-in-chief of the riot police to his subordinates to aim for and shoot at protestors’ heads in the context of protests near the City University of Hong Kong.” (para. 19)

(3) The “absence of information regarding the outcome of investigations into complaints lodged against the police and the extent and nature of disciplinary action . . . .” (para. 19)

### Recommendations

“[T]ake concrete measures to effectively prevent and eliminate all forms of excessive use of force by law enforcement officers,” including measures to “[e]nsure that all allegations of excessive use of force by police, particularly in policing protests from July to November 2019, are investigated promptly, thoroughly and impartially, that those responsible are prosecuted and, if found guilty, punished and that the victims obtain redress . . . .”; and “[m]aintain record on the use of force by law enforcement officials, which should be available for public scrutiny.” (para 20)

## Access to justice, independence of the judiciary, and fair trial

### Concerns

(1) “[C]ertain provisions of the National Security Law substantially undermine the independence of judiciary and restrict the rights to access to justice and to fair trial” (para. 35)

(2) "Articles 44 and 47 provide the Executive with excessive power, such as the power to appoint judges, on a list which is not made public, to hear national security cases in consultation with the Committee for Safeguarding National Security of the HKSAR and the Chief Justice . . ." (para. 35 (a))

(3) "Article 42 introduces more stringent threshold for bail . . . which creates a presumption against bail for those charged under the Law. About 74 per cent of persons charged with national security crimes allegedly have been denied bail without proper reasoning and many people have been in pre-trial detention, including 11 children, and some of them are reportedly in pretrial detention for more than a year." (para. 35 (c))

(4) "Article 46 authorizes the Secretary for Justice to decide on the cases to be tried by jury and there have been no national security cases tried by jury so far." (para. 35 (d))

### Recommendation

"Pending the repeal of the National Security Law, refrain from applying it" and "[t]ake all measures necessary to strengthen the independence of judiciary and protect the judiciary from any form of interference." (para. 36)

## Freedom of Expression

### Concerns

The adverse effect of the National Security resulting in "the closure of media outlets; . . . the blocking of websites and media accounts and the removal of online content; . . . the arrest and arbitrary detention of journalists, politicians, academics, students and human rights defenders who have expressed dissenting opinions; . . . intimidation, attack or threat of attack against journalists; . . . censorship; . . . interference with the editorial independence of public media outlet such as Radio Television Hong Kong." (para. 41)

### Recommendations

"[S]top applying the National Security Law and sedition legislation against journalists, politicians, academics, human rights defenders and members of the public duly exercising their right to freedom of expression; . . . discontinue all cases against journalists and individuals charged for exercising their right to freedom of expression; . . . ensure the editorial independence of all media outlets; . . . protect journalists from intimidation and attacks and investigate all such cases." (para. 42)

### Concerns

"[S]afeguarding national security has become one of the criteria for the public library collections." (para. 43)

### Recommendation

"Immediately stop censoring books and materials in the public libraries, including school libraries and reinstate those books and materials that have been removed for allegedly breaching the National Security Law or for being contrary to the interests of national security." (para. 44)

## Freedom of Association

### Concerns

"[An] excessive number of civil society organizations, including trade unions and student unions, which have relocated or ceased to operate since the enactment of the National Security Law and invocation of sedition legislation in 2020 . . . [and] trade unions have allegedly been targeted after a series of city-wide strikes in 2019 through deregistration . . ." (para. 49)

## Recommendation

"Refrain from taking any action that is likely to curb the exercise of the freedom of association and ensure a safe environment for the activities of civil society organizations, including trade unions and student unions . . ." (para. 50):

## Participation in public affairs

### Concerns

"[T]he non-compliance of the electoral system with the requirements of Article 25 of the Covenant, which has further deteriorated since the electoral changes in 2021 [including] the significantly reduced number of seats directly elected by public voters for both the Election Committee and the Legislative Council; . . . the diminishing representativeness of the Election Committee following the changes made to the composition and membership of its sectors and sub-sectors; the restricted candidate eligibility . . . ; the absence of participation of public voters in electing the Chief Executive [and] the vague criteria and process of disqualification of candidates and elected officials . . ." (para. 51)

### Recommendations

"[T]ake concrete steps, with a clear timeline, to introduce universal suffrage. In the meantime, it should reform the electoral system in line with article 25 of the Covenant and the Committee's general comment No. 25 (1996) on the right to participate in public affairs, voting rights and the right of equal access to public service, including by: (a) increasing the number of seats to be elected by public voters in the Election Committee and the Legislative Council, (b) increasing the number of public voters in the Election Committee, (c) introducing public voting for the election of the Chief Executive and (d) revising the candidate eligibility to ensure diversity among candidates; (e) review the criteria and process of disqualification and repeal discriminatory criteria. Furthermore, it should reverse the decision to disqualify elected officials." (para. 52)

## Conclusion

"The overarching message from the Committee is this: the Hong Kong SAR needs to put a stop to the repressive measures that have gutted a once-vibrant civil society," said Hom. "The Concluding Observations provide a clear international human rights-centered framework in which to assess and address what's happening in Hong Kong—against the jaw-dropping, fact-challenged picture and narrative presented by the Hong Kong delegation during the dialogue," said Hom.

The Committee requests that the Hong Kong government submit a report on steps taken to implement three specific recommendations by July 28, 2025: repealing the National Security Law, ensuring freedom of expression, and stopping any actions that curb freedom of association

"We urge the international community and the people of Hong Kong to use the Human Rights Committee's assessment, as well as the review process itself, as an accountability tool—to press for meaningful action by the Hong Kong SAR government to constructively respond to the Committee's expert recommendations. Here's a chance for the Hong Kong government to demonstrate it is truly a responsible international player." Hom said.