



**HONG KONG (CHINA):**  
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**COMMITTEE ON ECONOMIC, SOCIAL & CULTURAL RIGHTS**

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HRIC was founded in March 1989 by overseas Chinese students and scientists with a mission to support rights defenders and advance the institutional protection of international human rights in the People's Republic of China.

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## I. Introduction: Hong Kong (China) Fourth Periodic Review in Context

1. Human Rights in China (HRIC) makes this submission to the Committee on Economic, Social and Cultural Rights (CESCR or “the Committee”) in advance of the Committee’s Fourth Periodic Review of the government of Hong Kong, China (HKG).<sup>1</sup> HRIC’s submission highlights the alarming expansion of attacks on the right to education within an environment of steeply increasing securitization of Hong Kong society due to the *Law of the People’s Republic of China on Safeguarding National Security* in the *Hong Kong Special Administrative Region (National Security Law or NSL)*,<sup>2</sup> further exacerbated by the HKG’s COVID-19 policies in recent years.
2. The imposition and implementation of the sweeping *National Security Law* is the key development contributing to the serious deterioration of Hong Kong’s domestic rights environment. Statements issued by the UN High Commissioner for Human Rights<sup>3</sup> and UN special procedures<sup>4</sup> have noted how the NSL has impacted Hong Kong’s autonomy, rule of law, and the protection of fundamental rights and freedoms.<sup>5</sup> This is despite the fact that both the ICESCR and the *International Covenant on Civil and Political Rights* (ICCPR) have been specifically incorporated into the *National Security Law*.<sup>6</sup>
3. The Committee has also expressed concerns regarding the wide-ranging effects of COVID-19 on the enjoyment of a broad range of economic, social, and cultural rights, including the right to education.<sup>7</sup> However, the HKG invoked the necessity of COVID-19 health measures to restrict public assemblies, which severely restricted the peaceful exercise of fundamental rights and freedoms and undermined institutional safeguards, such as an independent judiciary and media.<sup>8</sup> More importantly, COVID-19 policies directly affected universities and academic freedom, due to increased surveillance both on and offline, resulting in greater self-censorship on the part of students, educators, and schools.
4. These government actions and policies undertaken in concert with other rights-restricting measures are transforming an education system that had, up to mid-2020, provided for the free acquisition of knowledge about history, current affairs, and politics; allowed free exploration of ideas across political and ideological divides; and encouraged independent, critical thinking—into one that is circumscribed by ideological and political imperatives dictated by the state. This regression will have huge consequences for Hong Kong’s students, numbering around 1 million,<sup>9</sup> for generations to come, and forever change education in Hong Kong as well as the future capacity of Hong Kong young people to effectively participate as citizens.

## II. Executive Summary

5. Against this backdrop of severely restricted civic space in Hong Kong, this submission will present an in-depth description of key developments since Hong Kong’s last review, and analyze the rights impacts on the education sector and on civil society stakeholders. This submission will focus on the following issues and concerns related to the right to education and academic freedom:
  - a. **Extensive Reforms to Education** – with the introduction of “patriotic education” to inculcate a greater sense of Chinese identity and removing the critical thinking components of the subject “Liberal Studies”, the entire education ecosystem has been radically politicized and transformed;
  - b. **Securitization of Education** – Hong Kong’s education ecosystem is securitized through the implementation of the *National Security Law* in 2020. National security education pervades all thought and activity, tangible or intangible, in all educational institutions. This mandated national security education has been weaponized into a form of systemic indoctrination;

- c. **Politicizing Education** – Political undertones pervade the education ecosystem, with the thoughts and actions of stakeholders such as students, educators, and schools being politicized and even criminalized in the post-NSL era on a massive scale (demonstrated by the numerous examples of individuals penalized for exercising their fundamental freedoms); and
  - d. **Censorship & Academic Freedom** – In the post-NSL and present-COVID era, academic freedom is undermined by restrictions on students, student unions, and the politicized and discriminatory targeting of diverse expression and extending even to public art on university campuses. Restrictive COVID-19 policies and reported surveillance over online instruction have also exacerbated self-censorship and undermined the effectiveness of the learning process,
6. To contribute to a robust constructive review of the HKG’s progress in implementing the ICESCR, HRIC’s submission highlights concerns related to the Right to Education (Item 25 of the Committee’s LOI) raised by the HKG’s written responses. We also provide additional information on select concerns and advance a number of recommendations for the Committee to consider.

### **III. Concerns regarding Implementation of Right to Education & Undermining of Academic Freedom (Arts. 13-14) (LOI Item 25)**

7. As elaborated by the Committee, the right to education epitomizes the indivisibility and interdependence of all human rights.”<sup>10</sup> The Preamble of ICESCR underscores that human rights and freedoms derive from the inherent dignity of the human person and that, in accordance with the *Universal Declaration of Human Rights*, “the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.” Article 13(1) provides that States Parties agree that “education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society. . . .”<sup>11</sup> (Emphasis added).
8. While academic freedom was recognized in Hong Kong’s educational system over the past decades,<sup>12</sup> the deterioration of academic freedom in Hong Kong in the post-NSL era is highlighted by global and domestic assessments. Hong Kong dropped from a grade “C” to “D” in Global Public Policy Institute’s 2020 Academic Freedom Index (AFI).<sup>13</sup> The report specifically highlighted Hong Kong as one of the countries or territories that deteriorated by at least 0.15 points in the last five years. A public opinion poll conducted locally in May 2021 also showed that close to 60% of interviewees think the *National Security Law* has restricted academic freedom for many in Hong Kong and that nearly 45% think the management of various universities in Hong Kong are making not much, little or no effort to protect academic freedom.<sup>14</sup> In the post-NSL era, there remains fear and anxiety among Hong Kong’s academic community about what can be discussed and taught. They also reveal widespread and deepening self-censorship throughout the community—among school authorities, teachers, and students alike.<sup>15</sup>
9. Despite the extensively documented deterioration in the education sphere in Hong Kong, the HKG continues to assert that academic freedom, key to ensuring the right to education, is not at risk. It points to Basic Law provisions that safeguard academic freedom (art. 34) and institutional autonomy (art.137) as remaining in full force, specifically that Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities.<sup>16</sup> However, the actual policies and practices implemented post-NSL and exacerbated by COVID restrictions expose the implementation gap between the HKG’s stated commitments and the realities on the ground.

10. With the aim of inculcating “correct thinking” and ideological loyalty to the Communist Party of China (CPC),<sup>17</sup> the spread of the ideologically driven model of education from mainland China to Hong Kong<sup>18</sup> presents a fundamental challenge to the values set forth in the Preamble and the rights protected in the Covenant. The rights-related impacts of the imposition of this model affects the whole education ecosystem with far-reaching implications for society and future generations, impacting not only specific actors such as students, educators, and schools, but also invariably altering the objectives of education and learning.

#### IV. Reforming Education: “Patriotism” versus Critical Thinking

11. In recent years, Hong Kong’s education ecosystem has undergone vigorous reforms, through the introduction of patriotic education, revamping of critical thinking subjects (i.e., Liberal Studies), and altering the content of textbooks to conform to and enforce official narratives.

##### *Introduction of Patriotic Education in Early Education*

12. Several measures taken by HKG highlight the authorities’ ambition to indoctrinate all students, to “help students learn Chinese culture from an early age.”<sup>19</sup> Hong Kong’s new Chief Executive, John Lee Ka-chiu in his first policy address in October 2022, highlighted National Education as a key administration focus and the promotion of “patriotic education” through the adoption of “a multi-pronged and coordinated approach in schools to promote national education within and beyond the classroom” aimed at strengthening “students’ sense of national identity and national pride”, and raising their “awareness to safeguard the national security of our country together.”<sup>20</sup> The policy measures cover kindergartens, primary and secondary schools, and range from a regular review of school curricula to enrich “patriotic” learning elements, to strengthening school-based management, and organizing inter-school national education activities, national education activities for parents and Mainland exchange and experience activities for post-secondary students.
13. In Hong Kong, legally mandated “patriotism” further undermines the right to education. On October 17, 2020, the Standing Committee of the National People’s Congress endorsed amendments to the *Flag Law* and the *National Emblem Law*. The HKSAR adopted the amended *National Flag and National Emblem Ordinance (NFNEO)*, which came into force on October 8, 2021.<sup>21</sup> Pursuant to *Article 7A* of the amended *NFNEO*, beginning January 1 2022, the Education Bureau (EDB) required all primary and secondary schools (including special schools) to display the national flag on each school day, conduct a national flag raising ceremony weekly, at which the national anthem was required to be played and sung, in order to demonstrate “respect for the country and enhance the sense of belonging towards the country among teachers and students.”<sup>22</sup> This is just one component of patriotic education under the national security framework. Any student who is not “patriotic” under these requirements, can be stripped off one’s access to education. For example, on October 5, 2022, 14 students from St Francis Xavier’s School were suspended for three days by the school for disrespecting the national anthem for missing the flag-raising ceremony, because they were having breakfast.<sup>23</sup>

##### *Revamp of “Liberal Studies” Subject: Rejection of Critical Independent Thinking*

14. The extensive reform of Liberal Studies (LS) runs counter to the subject’s original aim of encouraging independent, critical thinking among students. More importantly, it calls into question the implementation of the core principle of the right to education, as enshrined in Article 13 of the ICESCR: “The State Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They

further agree that education shall enable all persons to participate effectively in a free society . . .”<sup>24</sup> (Emphasis added.)

- a. In 2020, the HKG announced the revamping of LS, a core subject for upper secondary school students. LS was first introduced in 2009 with the explicit aim of broadening students’ knowledge base and producing independent, critical thinkers.<sup>25</sup> As the anti-extradition protests progressed in 2019, LS came under attack by pro-Beijing politicians, including then-Chief Executive Carrie Lam, who blamed the subject for fueling student activism. In May 2020, Lam stated that she was concerned that schoolchildren were being “poisoned” by “false and biased information,” and that some subjects, including Liberal Studies, could be “infiltrated.”<sup>26</sup> On December 9, 2020, the Hong Kong Professional Teachers’ Union (HKPTU) released a survey showing that more than 90 percent of the 500 Hong Kong teachers polled believed that Liberal Studies reform was politically motivated.<sup>27</sup>
- b. On February 2, 2021, the Education Bureau announced its plan to rename Liberal Studies and revise its contents in a circular<sup>28</sup> reducing the total number of hours for the subject by almost half. Alarming, as the HKPTU pointed out, essential elements of the curriculum intended to provide students with knowledge of world political affairs, deepen their understanding of society from different perspectives, and build their capacity for independent, critical thinking were removed.
- c. As vetted and approved by the Education Bureau, new textbooks for the 2022/23 school year on the revamped liberal studies subject “citizenship and social development” in secondary schools claim Hong Kong was never a British colony. The textbooks also adopted the official narrative that the 2019 Anti-Extradition Law Amendment Bill (Anti-ELAB) protests were driven by “external forces” and constituted “a threat to national security.”<sup>29</sup>

#### V. Securitization of Education: Post-National Security Law

15. The post-NSL curriculum requirement to embed national security education in nearly all school subjects highlights the comprehensive implementation of the all-encompassing national security framework—resulting in an “increasingly securitized environment.”<sup>30</sup> In this securitized environment, only the rhetoric of safeguarding national security is permitted within schools, and diverse voices are censored and silenced. These policies and practices to entrench national security in school curricula run counter to the Hong Kong SAR government’s obligation under the Covenant to ensure that the right to education is “rights-based” and will “strengthen the respect for human rights and fundamental freedoms.” As one prominent legal scholar observed: “In a system lacking political participation, judicial independence, press freedom, and a civil society, a powerful national security institution could become the bulwarks of an autocratic system. And with this, national security could become a pretext for acts of state brutality.”<sup>31</sup>

#### *NSL Implementation: Education as Indoctrination*

16. In Hong Kong, where the implementation of the NSL and the increasing suppression of the exercise of fundamental rights and freedoms have called into serious question the CPG’s compliance with its promise to govern Hong Kong under the “one country, two systems” principle—the requirement to embrace Chinese identity, along with the implied requirement to support the CPG, may amount to “undue coercion in the development of an individual’s beliefs, ideologies, reactions and positions.”<sup>32</sup> A former lawmaker and the vice chairman of the HKPTU, Ip Kin-yuen, raised the concern that national security education is aimed at indoctrination rather than instruction, intended to “suppress” minds, rather than open them.<sup>33</sup>

17. National security education is the concretization of a policy that has been in the making since the passage of the *National Security Law* in June 2020. The HKG's actions and education policies amount to indoctrination programs and interfere with the right to form and hold opinions, a right that must be free from “undue coercion in the development of an individual’s beliefs, ideologies, reactions, and positions” with regard to the government. And in the name of national security, imposition of national security education inhibits the exercise of critical thinking among students, and advances the political agenda of the CPG in Beijing at the expense of an education that strengthens respect for human rights and fundamental freedoms.
18. Key examples of the introduction of national security education into Hong Kong’s education ecosystem include:
  - a. In February 2021, a circular titled “National Security Education in School Curriculum - Implementation Mode and Learning and Teaching Resources” by Hong Kong’s Education Bureau was issued to all supervisors and heads of primary and secondary Schools. It required them to insert national security components into their respective school curricula.<sup>34</sup> The order states: “The fundamentals of national security education are to develop in students a sense of belonging to the country, an affection for the Chinese people, a sense of national identity, as well as an awareness of and a sense of responsibility for safeguarding national security.” As articulated, the core aim links raising students’ sense of duty to safeguard national security *with* enforcing the embrace of proscribed Chinese identity among students.
  - b. The official definition of national security is all-encompassing, which is consistent with the Central Government’s approach of “comprehensive national security.”<sup>35</sup> A video released by the Education Bureau on February 5, 2021: “Let’s Learn about National Security (Audio Picture Book)” designed for lower primary school students, introduces the concept that national security “covers a lot of issues, including technological security, ecological security, territorial security, cultural security, social security, cyber security, economic security, and so on.”<sup>36</sup>
  - c. In the set of requirements drawn up by the Education Bureau, “National Security: Specific Measures for Schools”<sup>37</sup> teachers are told to emphasize to students that “as far as national security is concerned, there is no room for debate or compromise,”<sup>38</sup> and that “the campus is not a place for expressing political aspirations.”<sup>39</sup> Schools will be cleansed of discussions of political topics and expressions of political opinion except those reflecting the “correct” understanding of political topics. Schools must:
    - i. “ensure that the display of words or objects within the campus . . . such as books (including library collections), publications and leaflets does not involve contents that endanger national security”;<sup>40</sup>
    - ii. “forbid any outsider(s) from entering the school campus to conduct activities involving political propaganda”;<sup>41</sup>
    - iii. ban the wearing of garments and items “that carry political message(s) on campus” and “[c]hanting slogans, forming human chains, posting slogans/ publicity materials or singing songs which carry political message(s) within the campus”;<sup>42</sup> and
    - iv. forbid students from “[r]equesting peers/ others to express their political stance.”<sup>43</sup>
  - d. Most recently, starting from the 2023/24 school year, newly appointed teachers in kindergartens, primary and secondary schools are required to pass the Basic Law and National Security Law Test (BLNST).<sup>44</sup> National security education is made mandatory in school curriculum<sup>45</sup> and universities also follow the requirement making it compulsory for all undergraduate to graduate students.<sup>46</sup>



## VI. Politicization of Education: Disciplining Schools, Educators & Students

19. The Committee has elaborated that education “is both a human right in itself and an indispensable means of realizing other human rights”; and that “the right to education can only be enjoyed if accompanied by the academic freedom of staff and students.”<sup>47</sup> Yet this right has been undermined by the authorities’ prohibition on diverse forms of peaceful expression, including group protest actions, within and outside of schools.<sup>48</sup> Political undertones are sentient, with the thoughts and actions of stakeholders such as students, educators, and schools being politicized and even criminalized in the post-NSL era on a massive scale. This is demonstrated by the numerous examples of individuals penalized for exercising their fundamental freedoms especially if their political views do not conform to officially approved and permitted expression.

### *Restrictions on Students & Student Unions*

20. On July 8, 2020, just days after the implementation of the NSL, Education Secretary Kevin Yeung stated that students “should not participate in class boycotts, or take part in activities such as chanting slogans, forming human chains, and posting slogans or singing songs which contain political messages at schools for expressing [a] political stance” and that “schools are obliged to stop” these acts. Yeung further stressed, “[u]nder no circumstances should students or other persons be incited to indicate their stance on controversial and evolving political issues” and that “[o]ne of the goals of education,” he asserted, is “cultivating their positive values.”<sup>49</sup>
21. The authorities have also targeted Hong Kong’s robust university student unions that have long been the center of student life and engagement with diverse community issues. At least six universities in Hong Kong cut ties with their student unions since 2021. The universities suppress student organizations by withdrawing administrative support, banning the use of the university name, and collection of membership fees, requisitioning the unions’ physical office spaces,<sup>50</sup> or even “keeping under custody” millions of Hong Kong dollars’ worth of funds and reserves.<sup>51</sup> These drastic actions made it impossible for the unions to operate:
- a. On August 18, 2021, four former student union and council members of the University of Hong Kong (HKU)— Kinson Cheung, Charles Kwok, Anthony Yung and Chris Todorovski—were arrested and later charged with “advocating terrorism” and face up to 10 years in prison under the *National Security Law*. The police arrested the four on the grounds of a statement issued by the student union expressing sympathy for a man who killed himself after stabbing a police officer on July 1, 2021.<sup>52</sup> Within days of the issued statement, the four were condemned by university management for “whitewashing violence and violent attacks.” After stepping down from the students’ union, they were still barred from entering the campus, as well as prohibited from using the university’s facilities and services.<sup>53</sup>
  - b. On October 7, 2021, the 50-year-old Chinese University of Hong Kong’s Students’ Union (CUSU) announced disbandment, citing increased difficulties following the administration’s withdrawal of support.
  - c. On February 21, 2022, the national security police investigated a “farewell ceremony” organized by the City University of Hong Kong Students’ Union (CityUSU) a week earlier, after receiving a report of a gathering on the CityU campus, where messages left on the “democracy wall” were deemed as inciting “Hong Kong independence.”<sup>54</sup> In less than two months, CityU’s Facilities Management Office sent emails to at least 30 students accusing them of committing various offences and misconduct in connection with the “farewell ceremony.”<sup>55</sup>



### ***Targeting of Educators & Professional Unions***

22. The Committee has clearly stated that “members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing.”<sup>56</sup> However, HK education authorities have targeted, punished and restricted the exercise of these rights and freedoms, creating an intensifying climate of censorship, fear, and demoralization in the education sector.
- a. As of April 2022, the Education Bureau received 344 cases between mid-June 2019 and the end of December 2021, involving suspected professional misconduct of teachers related to the Anti-ELAB protests in 2019. Among the 311 cases completed investigations, six teachers had their registrations cancelled, 50 received reprimand letters, 59 received warning letters, another 39 got written advice, and 37 were given verbal reminders.<sup>57</sup> Teachers were seen by the authorities as having played a major role in provoking students to participate in the 2019 protests.
  - b. In December 2022, a revamped set of the “Guidelines on Teachers’ Professional Conduct” was issued to stipulate the professional conduct and norms of behavior required of teachers. Specific codes include promoting national education actively, identifying and reporting potential illegal activities or information deviant from moral standards. Teachers can be punished by deregistration if they fail to do so.<sup>58</sup>
  - c. Specific examples of educators who have been punished for exercising their fundamental freedoms include:
    - i. The firing of a university professor for his political activism. On July 28, 2020, **Benny Tai Yiu Ting**, associate professor of law at the University of Hong Kong (HKU) was fired by the university’s governing council.<sup>59</sup> Tai was one of the key planners of the 2014 Occupy Central Movement (later more generally known as the Umbrella Movement), a pro-democracy civil disobedience protest that lasted for 79 days. Tai was convicted of two public nuisance offences in August 2020 in connection with his role in the Occupy Movement, but was granted bail pending appeal.
    - ii. The contract termination of a university lecturer due to his political activism. On July 27, 2020, a day before the firing of **Benny Tai, Shiu Ka-chun**, a lecturer of social work at the Baptist University of Hong Kong, was told that his contract would not be renewed at expiration at the end of August. The university provided no reason for the termination.<sup>60</sup> Shiu is a former lawmaker, who served nearly six months in prison for two public nuisance charges in connection with the 2014 Umbrella Movement.
    - iii. The deregistration of a primary school teacher for including freedom of speech and Hong Kong independence in class work.<sup>61</sup> On October 5, 2020, the Education Bureau (EDB) permanently revoked the license of a teacher at the Alliance Primary School, a private school, for “spreading the idea of Hong Kong independence” in violation of the *Basic Law*.<sup>62</sup>
23. In its response to the Committee’s concerns, the HKG has defended the deregistration of teachers as necessary to ensure teachers teach positive values and “correct” views and concepts. It states:
- “Teachers have the responsibility of teaching the correct concepts, providing students with correct information and nurturing in them positive values with a view to fostering their healthy personal

growth and contributing to the development of the society. It is totally not acceptable for teachers to impart to students distorted and biased views, concepts inconsistent to the constitutional status of a region or country, or bring to students any harm that would adversely affect their growth. Based on evidences as well as nature and severity of the misconducted cases, for persons found not fit and proper to teach, their registration would be cancelled. In this connection, it is also note-worthy that while freedom of expression is respected, it is subject to certain restrictions including national security, public order (*ordre public*), public health, morals, etc. While we would not comment on individual cases, it is a general and reasonable expectation of the public that teachers should serve as role models of their students.” (HKG response to LOI, para.126) (Emphasis added)

24. However, simply citing the general principle that rights are subject to certain restrictions does not address the requirement that these restrictions are provided by law, proportionate and necessary and how its policy and practice meet these standards. The legal and policy requirements of ideological conformity with officially permitted and enforced “correct” views raises fundamental concerns and tensions with international standards related to the freedom” to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing.”
25. In addition to cases of individual educators punished for exercising their rights to academic freedom described above, the HKPTU, the largest teachers’ union in Hong Kong was subjected to a relentless pressure campaign and media attacks. In August 2021, the HKPTU with over 95,000 members, also the largest trade union for a single profession in Hong Kong, disbanded after the Education Bureau suddenly cut ties with it, accusing it of infiltrating schools with politics.<sup>63</sup> The 47-year-old union with a pro-democracy stand had been attacked by state-run media outlets, which labelled it a “poisonous tumour” that must be “eradicated.”
26. Against this backdrop of shrinking academic freedom, there has also been an alarming trend of Hong Kong educators leaving Hong Kong, taking early retirement, or forced to resign due to political pressure. Recent examples include Assistant Professor **Justin Wong Chiu-tat** at Hong Kong Baptist University’s Academy of Visual Arts, who left Hong Kong after hearing that his university allegedly contacted the police over an article he had written analyzing the role of visual symbols in the 2019 Anti-ELAB protests in November, 2021.<sup>64</sup> **Ivan Choy Chi-keung**, political scientist at the Chinese University of Hong Kong, decided he would retire early in 2022, citing a distressing social environment caused by “red lines everywhere.”<sup>65</sup> Even foreign teachers have been affected. **Ryan Thoreson**, an American legal scholar specializing in LGBTQ rights, was denied a visa by the HKSAR without official explanation, even though he was hired by the University of Hong Kong as an assistant professor to teach human rights law.<sup>66</sup>

### *Censoring Public Space on Campus*

27. Hong Kong academic campuses have historically been vibrant spaces of student expression and activity, and community organizing. During the 2019 ELAB Movement, the campuses were filled with protest artwork, posters, political slogans, and later sober memorials to students who died. However, in the wake of the draconian implementation of the NSL and under the shadow of the official narrative about the anti-ELAB protests, diverse expression on campus was chilled, censored and shut down.<sup>67</sup> Long standing June Fourth art pieces were all removed or taken down, including the Pillar of Shame at the University of Hong Kong, Goddess of Democracy at the Chinese University of Hong Kong and the Tiananmen Massacre relief sculpture at Lingnan University,<sup>68</sup> as well as

democracy walls at universities.<sup>69</sup> Under the NSL and the intensification of control over national narratives, these symbols of past human rights abuses that powerfully sustained collective memory and demands for official accountability for years became politically threatening.

## VII. COVID's Impact upon Academic Freedom

28. The Committee has expressed specific concerns regarding the impact of COVID-19 restrictions and policies on the right to health and the exercise of other rights. While addressing health pandemic, COVID-19 policies cannot be used as a cover for human rights violations and abuses. The omnibus resolution adopted by the General Assembly on September 11, 2020 on COVID-19 and human rights emphasized that “States need to ensure that all human rights are respected, protected and fulfilled while combating the pandemic and that their responses to the COVID-19 pandemic respect and are in full compliance with their obligations under international law, including international humanitarian law and international human rights law, while emphasizing that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing.”<sup>70</sup> (emphasis added).
29. The impact of COVID-19 on the right to education is inextricably linked to impacts on academic freedom. As elaborated by the Committee on Economic, Social and Cultural Rights, “[e]ducation is both a human right in itself and an indispensable means of realizing other human rights”; and “the right to education can only be enjoyed if accompanied by the academic freedom of staff and students.”<sup>71</sup> (Emphasis added.)] The suppression of speech and other forms of expression in schools, the prohibition on the exploration of “controversial and evolving political issues,” and the imperative to cultivate “positive values”—a code for politically prescribed values—among students, seriously undermines the meaningful implementation of relevant international principles and standards, including the “right of everyone to education,” which “shall be directed at the full development of the human personality,” and the “sense of dignity” and “fundamental freedoms” (ICESCR, art. 13).<sup>72</sup>
30. Stringent COVID-19 policies and remote learning practices<sup>73</sup> have restricted students’ ability to assemble and engage in free discussions, increased self-censorship, and undermined the quality of the learning process. Students also reported less satisfaction with regard to their learning and progress during COVID-19, due to strict curbs and ineffective teaching methods.<sup>74</sup> A report by Peter Baehr, Chair Professor of Social Theory and Fellow of the Center of Asian Pacific Studies at Lingnan University, describes the increased surveillance of faculty computers at Lingnan University in 2021, including the collection of IP addresses, zoom and Wi-Fi logs of faculty,<sup>75</sup> practices that chills the academic environment and increases self-censorship.

## VIII. Recommendations

31. The upcoming review is an important opportunity to highlight once again that formal protections in law are not sufficient to comply with the state party’s implementation obligation. The Committee has clarified that while the Covenant adopts a “broad and flexible approach”, this coexists with the treaty obligation to use all means to give effect to the Covenant (General Comment No. 9). The Committee’s further explains under principles of international law (VCLT, Art. 27), a state party may not invoke domestic law as justification for its failure to give effect to Covenant, i.e., it must modify/reform law.
32. To give effect to these principles and to promote concrete implementation progress in addressing the Committee’s concerns regarding the right to education, we urge the committee to consider the following recommendations:

- a. To ensure diverse, safe and effective civil society participation in the Committee’s interactive dialogue with the HKG and follow-up to the review, we urge the Committee to:
  - seek clear assurances from the HKG that no person or civil society group contributing and participating in the review process will be at risk of threats of criminal prosecution under NSL or other HK laws; and
  - request the HKG to widely disseminate the Final Concluding Observations and Recommendations of the review online, in schools and as part of public education initiatives, and to all appropriate government bodies.
  
- b. To address the concerns of the Committee and other experts and to promote meaningful progress in implementation of the Covenant’s protections for the right to education and academic freedom, the Committee should:
  - request the HKG to provide a specific timetable and planned measures to give full effect to Articles 3, 4 of the NSL, including reviewing and clarifying policy guidance to ensure the right to education is protected in practice;
  - urge the authorities to investigate reports of electronic surveillance and collection of personal identifying data on teachers’ computers and ensure that any data collection, storage and use comply with international standards and to identify mitigation measures and safeguards to address the chilling of academic freedom; and
  - recommend that the authorities review curriculum guidance and develop specific measures to introduce a rights-based framework, including in national security and patriotic education materials and pedagogy.
  
- c. Regarding academics and students charged under the NSL or other criminal provisions of Hong Kong laws, request updates on the status of their cases and their situation in detention or prison, and information on safeguards to ensure they are afforded effective and appropriate assistance from legal counsel of choice.

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<sup>11</sup> “Fourth periodic report submitted by Hong Kong, China, under articles 16 and 17 of the Covenant, due in 2019,” August 5, 2020 [Date received: December 19, 2019], <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slO6QSmlBEDzFEovLCuW%2bALqOml1btoJd4YxREVf2WipwJ5xuSazynvUP%2bVa66SfbNNeqzL1hWIBNJJ50mCiX%2fn8HVRnXYqPgP4wkduktGrtgVJiki34wqUKqfbXq3B>.

<sup>2</sup> *Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region* (2020), <https://www.elegislation.gov.hk/hk/A406>.

<sup>3</sup> On July 3, 2020, the spokesperson for the High Commissioner for Human Rights stated: “[w]e are alarmed that arrests are already made under the [NSL] . . . when there is not full information and understanding of the scope of the offences.” Among the concerns expressed are the vague and overly broad definition of the offenses which “may lead to discriminatory or arbitrary interpretation and enforcement”; and the “collusion” offense which “may lead to a restriction of civic space and of the possibility for civil society actors to exercise their right to participate in public affairs.” See “Press briefing note on China / Hong Kong SAR by Spokesperson for the UN High Commissioner for Human Rights on the National Security Law, Rupert Colville,” [United Nations Human Rights Office of the High Commissioner](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E), July 3, 2020, EN: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E>, CH: <https://www.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=C>.

<sup>4</sup> Seven UN experts’ communication to China urging review and reconsideration of National Security Law to comply with international law, September 1, 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487>.

<sup>5</sup> The 1984 *Joint Sino-British Declaration* guaranteed Hong Kong’s autonomy and way of life for 50 years, post the return of sovereignty of Hong Kong to the PRC in 1997. See *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong*, last revised July 1, 2007, <https://www.cmab.gov.hk/en/issues/jd2.htm>.

<sup>6</sup> *The Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China*, last updated July 17, 2020, [https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw\\_full\\_text\\_en.pdf](https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw_full_text_en.pdf).

<sup>7</sup> The Committee on Economic, Social and Cultural Rights issued a statement on April 17, 2020. See “Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights (E/C.12/2020/1),” *Committee on Economic, Social and Cultural Rights*, April 17, 2020, <https://digitallibrary.un.org/record/3856957?ln=en>. COVID-19 has also presented extensive rights-related challenges, including the right to education and the impact on young peoples’ development and mental health. Mental well-being during the crisis is shown to be correlated to some extent with age, with younger groups experiencing poorer well-being outcomes. In particular, the mental well-being of young people aged 18-29 whose education or work has been disrupted the most since the onset of the pandemic was greatly reduced with many affected by probable anxiety or depression. See “Youth and COVID-19: impacts on jobs, education, rights and mental well-being report,” International Labour Organization, August 11, 2020, [https://www.ilo.org/global/topics/youth-employment/publications/WCMS\\_753026/lang--en/index.htm](https://www.ilo.org/global/topics/youth-employment/publications/WCMS_753026/lang--en/index.htm).

<sup>8</sup> Human Rights in China, “Input for report on disinformation: To the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,” February 15, 2021. This submission has not been made public. MS on file.

<sup>9</sup> According to HKG statistics for the academic year 2019/2020, there were 174,297 kindergarten students, 373,228 primary school students, 327,394 secondary school students, and 8,270 special education students. See Education Bureau, “Figures and Statistics,” available at <https://www.edb.gov.hk/en/about-edb/publications-stat/figures/index.html>. In the 2018/2019 academic year, there were 100,717 students at the government funded universities in Hong Kong, see C. Textor, “Total student enrollment of UGC funded universities in Hong Kong from academic year 2011/12 to 2018/19, by gender,” *Statista*, April 9, 2020, <https://www.statista.com/statistics/645438/hong-kong-total-number-of-enrolled-students-of-ugc-funded-universities-by-gender/#:~:text=In%20the%20academic%20year%20of,funded%20universities%20in%20Hong%20Kong>.

<sup>10</sup> U.N. CESCR General Comment No. 11: Plans of Action for primary education (Article 14), May 10, 1999, Para. 2: <https://www.ohchr.org/en/resources/educators/human-rights-education-training/c-general-comment-no-11-plans-action-primary-education-article-14-1999>.

<sup>11</sup> U.N. International Covenant on Economic, Social and Cultural Rights, December 16, 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

<sup>12</sup> Timothy McLaughlin, “How Academic Freedom Ends,” *The Atlantic*, June 6, 2021, <https://www.theatlantic.com/international/archive/2021/06/china-hong-kong-freedom/619088/>.

<sup>13</sup> Global Public Policy Institute, “FREE UNIVERSITIES: Putting the Academic Freedom Index Into Action,” March 2021, [https://gppi.net/media/KinzelbachEtAl\\_2021\\_Free\\_Universities\\_AFi-2020\\_upd.pdf](https://gppi.net/media/KinzelbachEtAl_2021_Free_Universities_AFi-2020_upd.pdf).

<sup>14</sup> Hong Kong Public Opinion Research Institute, “PopPanel Research Report No. 77 cum “We Hongkongers” Research Report No. 54,” May 14, 2021, [https://www.pori.hk/wp-content/uploads/2021/11/Panel\\_report77\\_eng\\_2021may14\\_PORI.pdf](https://www.pori.hk/wp-content/uploads/2021/11/Panel_report77_eng_2021may14_PORI.pdf).

<sup>15</sup> Vivian Wang, “As Hong Kong Law Goes After ‘Black Sheep,’ Fear Clouds Universities,” *The New York Times*, November 7, 2020, <https://www.nytimes.com/2020/11/07/world/asia/hong-kong-china-national-security-law-university.html>; and Jerome Taylor, and Xinqi Su, “Security law: Hong Kong scholars fear for academic freedom,” *Hong Kong Free Press*, July 15, 2020, <https://hongkongfp.com/2020/07/15/security-law-hong-kong-scholars-fear-for-academic-freedom/>.

<sup>16</sup> Replies of the Hong Kong Special Administrative Region of the People’s Republic of China to the List of Issues in relation to the Fourth Periodic Report (E/C.12/CHN/RQ-HKG/4), March 29, 2022, Para. 123, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=TmEf2qU3ZBlNxcckZZTWE9tXfCjZyq2k36ygK5bIX8dn1hfWYYIntDswXgimk2Y6NtSNprLusoIKEJlzyqLnA==](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=TmEf2qU3ZBlNxcckZZTWE9tXfCjZyq2k36ygK5bIX8dn1hfWYYIntDswXgimk2Y6NtSNprLusoIKEJlzyqLnA==).

<sup>17</sup> Concerns over China’s education approach were expressed more than seventeen years ago by the Special rapporteur on the Right to Education, following her 2003 mission to mainland China. See “Report submitted by the Special Rapporteur, Katarina Tomaševski, Addendum Mission to China,” Commission on Human Rights, November 21, 2003, <https://undocs.org/E/CN.4/2004/45/Add.1>. Among the concerns were that “China’s law does not yet conform to the international legal framework defining the right to education” (para. 6); “[f]reedom to impart education is not recognized, nor is teachers’ freedom of association” (Summary); and politicized history teaching “would lead to the rewriting of many history textbooks” (Mission Report, paras. 38, 39). Since 2013, ideological control in the mainland has continued to intensify and the requirement of loyalty to the Party now covers every sector of society and all individuals and groups, including judges, lawyers, teachers, the media, and private sector businesses.

<sup>18</sup> The restrictions on the right to education by the Central government are not new. In 2013, the CPC banned the teaching of seven topics in university classrooms, including universal values, press freedom, and civil rights. See Raymond Li, “Seven subjects off limits for teaching, Chinese universities told,” *South China Morning Post*, May 10, 2013, <https://www.scmp.com/news/china/article/1234453/seven-subjects-limits-teaching-chinese-universities-told>. In 2017, the CPC augmented its political indoctrination efforts to include educators by setting up CPC departments to oversee the “ideological and political work” of educators. “Chinese universities tighten ideological control of teaching staff,” Nectar Gan, “Chinese universities tighten ideological control of teaching staff,” *South China Morning Post*, August 28, 2017, <https://www.scmp.com/news/china/policies-politics/article/2108597/china-universities-tighten-ideological-control-teaching>.

<sup>19</sup> *Ibid.*

<sup>20</sup> HKSAR, “The Chief Executive’s 2022 Policy Address,” October, 2022, <https://www.policyaddress.gov.hk/2022/en/p123.html>

<sup>21</sup> National Flag and National Emblem Ordinance, October 8, 2021, <https://www.elegislation.gov.hk/hk/A401>. See also: HKSAR, “National Flag and National Emblem (Amendment) Bill 2021 to be gazetted this Friday,” August 11, 2021, <https://www.info.gov.hk/gia/general/202108/11/P2021081100455.htm>.

<sup>22</sup> HKSAR Education Bureau, “Education Bureau Circular No. 11/2021 National Flag, National Emblem, National Anthem and Regional Flag,” October 11, 2021, <https://applications.edb.gov.hk/circular/upload/EDBC/EDBC21011E.pdf>.

<sup>23</sup> “School suspends 14 pupils for ‘disrespecting flag,’” *Radio Television Hong Kong*, October 11, 2022, <https://news.rthk.hk/rthk/en/component/k2/1670468-20221011.htm>.



<sup>24</sup> The same principle, but in slightly different language is also enshrined in the *Universal Declaration of Human Rights*, art. 26 (2): “Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”

[https://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf).

<sup>25</sup> A government curriculum guide stated: “[Liberal Studies] aims to broaden the students’ knowledge base and enhance their social awareness. It adopts an issue-enquiry approach, which helps liberate the minds of students by having them study a wide range of issues and *encouraging them to find out information themselves and develop their own opinions. It helps students understand complex issues in contemporary society, in the nation and in the world. Students are encouraged to draw knowledge from different disciplines in the analysis of the issues, and to develop their own views, construct personal knowledge, and become critical thinkers.*” “Liberal Studies Curriculum and Assessment Guide (Secondary 4 - 6),” Education Bureau Curriculum Development Council and The Hong Kong Examinations and Assessment Authority, 2007, with updates in January 2014,

[https://334.edb.hkedcity.net/new/doc/eng/curriculum/LS%20C&A%20Guide\\_updated\\_e.pdf](https://334.edb.hkedcity.net/new/doc/eng/curriculum/LS%20C&A%20Guide_updated_e.pdf).

<sup>26</sup> Lam’s statements were made during an interview with the pro-Beijing Chinese language newspaper Ta Kung Pao on May 11, 2020. See “特首專訪 粵港澳出入境 研月內放寬檢疫,” *Ta Kung Pao*, May 11, 2020,

<http://www.takungpao.com.hk/news/232109/2020/0511/447148.html>; Helen Davidson and agencies, “Carrie Lam blames Hong Kong education system for fuelling protest,” *The Guardian*, May 11, 2020, <https://www.theguardian.com/world/2020/may/11/carrie-lam-blames-hong-kong-education-system-for-fuelling-protests>; and Ho-him Chan, “Hong Kong leader Carrie Lam’s warning to schools over teaching of ‘fallacious arguments’ draws fire from union,” *South China Morning Post*, May 12, 2020, <https://www.scmp.com/news/hong-kong/education/article/3083902/hong-kong-leader-carrie-lams-warning-schools-over-teaching>.

<sup>27</sup> Ho-him Chan, “More than 90 per cent of 500 teachers polled say liberal studies reform politically motivated,” *South China Morning Post*, December 9, 2020, <https://www.scmp.com/news/hong-kong/education/article/3113255/more-90-cent-500-hong-kong-teachers-polled-say-liberal>.

<sup>28</sup> In the multiple-choice survey question about renaming the subject, respondents are offered the choices of five alternative names (Citizenship and Nation, Nationals and Society, etc.) and the option of “Other suggestions apart from Liberal Studies.” See pp. 20-23 for survey questions on renaming Liberal Studies; and pp. 33-43 for content revisions, in “Optimising the Four Senior Secondary Core Subjects to Create Space for Students and Cater for Learner Diversity: School Questionnaire Survey and School Briefing Sessions,” Education Bureau of the HKSAR, February 2, 2021,

<https://applications.edb.gov.hk/circular/upload/EDBCM/EDBCM21020E.pdf>.

<sup>29</sup> William Yiu, “Hong Kong was not British colony as China did not recognise unequal treaties ceding city to Britain, new textbooks reveal,” *South China Morning Post*, June 13, 2022, <https://www.scmp.com/news/hong-kong/education/article/3181560/hong-kong-was-not-british-colony-china-did-not-recognise>; and “New Hong Kong textbooks ‘will claim city never was a British colony,’” *The Guardian*, June 15, 2021, <https://www.theguardian.com/world/2022/jun/15/new-hong-kong-textbooks-will-claim-city-never-was-a-british-colony>.

<sup>30</sup> UN Special Procedures’ communication to People’s Republic of China on the application of the Counter-Terrorism Law, op. cit.

<sup>31</sup> “China’s National Security Law: The Danger of an All-Encompassing National Security Framework,” op. cit.

<sup>32</sup> A companion circular from the Education Bureau, “National Security: Maintaining a Safe Learning Environment Nurturing Good Citizens,” contains language alarmingly similar to propaganda language used by mainland Chinese authorities: it stresses “correct and objective understanding” of the concept of national security and urges strengthening of students’ “virtue cultivation.” See “EDB Circular No. 3/2021 National Security: Maintaining a Safe Learning Environment Nurturing Good Citizens,” Education Bureau of the HKSAR, February 4, 2021, <https://applications.edb.gov.hk/circular/upload/EDBC/EDBC21003E.pdf>.

<sup>33</sup> Vivian Wong, “A Talking Owl and Cheery Sounds: Children’s Video Targets Dissent in Hong Kong,” *The New York Times*, February 5, 2021, <https://www.nytimes.com/2021/02/05/world/asia/hong-kong-national-security-children.html>.

<sup>34</sup> “Education Bureau Circular No. 2/2021 National Security Education in School Curriculum - Implementation Mode and Learning and Teaching Resources,” Education Bureau of the HKSAR, February 4, 2021, <https://applications.edb.gov.hk/circular/upload/EDBC/EDBC21002E.pdf>.

<sup>35</sup> MERICS China Monitor, “‘Comprehensive National Security’ unleashed: How Xi’s approach shapes China’s policies at home and abroad,” September 15, 2022, <https://www.merics.org/en/report/comprehensive-national-security-unleashed-how-xis-approach-shapes-chinas-policies-home-and>.

<sup>36</sup> The official video was released in English ([https://emm.edcity.hk/media/t/1\\_vbukjhmX](https://emm.edcity.hk/media/t/1_vbukjhmX)), Cantonese ([https://emm.edcity.hk/media/1\\_tjh0ht5c](https://emm.edcity.hk/media/1_tjh0ht5c)), and *putonghua* ([https://emm.edcity.hk/media/1\\_z8ma3ren](https://emm.edcity.hk/media/1_z8ma3ren)). All three versions are blocked from access from the United States. When the links are clicked from a computer in the U.S., this message is displayed: “‘Unauthorized country’: We’re sorry, this content is only available in certain countries.” The English video can be accessed from this article: Helen Davidson, “‘Let’s learn about national security’: Hong Kong rewrites school rules,” *The Guardian*, February 5, 2021, <https://www.theguardian.com/world/2021/feb/05/lets-learn-about-national-security-hong-kong-releases-video-for-young-children>.

<sup>37</sup> “National Security: Specific Measures for Schools,” Education Bureau of the HKSAR, undated, <https://www.edb.gov.hk/attachment/en/sch-admin/national-security/specific-measures.pdf>.

<sup>38</sup> *Ibid.*, 8.

<sup>39</sup> *Ibid.*, appendix 6, 1.

<sup>40</sup> *Ibid.*, 5.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, appendix 6, 1.

<sup>43</sup> *Ibid.*, appendix 6, 2.

- <sup>44</sup> HKSAR Education Bureau, “Requirement for Newly-appointed Teachers to Pass the Basic Law and National Security Law Test,” October 24, 2022, [https://www.edb.gov.hk/attachment/en/sch-admin/admin/about-sch-staff/blnst/EDBC13\\_2022\\_en.pdf](https://www.edb.gov.hk/attachment/en/sch-admin/admin/about-sch-staff/blnst/EDBC13_2022_en.pdf).
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- <sup>46</sup> Chan Ho-him, “At least 3 Hong Kong universities make national security education compulsory for students,” *South China Morning Post*, July 26, 2021, <https://www.scmp.com/news/hong-kong/education/article/3142592/hong-kong-baptist-university-makes-national-security>.
- <sup>47</sup> “CESCR General Comment No. 13: The Right to Education (Art. 13),” op. cit.
- <sup>48</sup> Gerry Mullany, “Hong Kong Bans Protest Song and Other Political Expression at Schools,” *The New York Times*, July 8, 2020, <https://www.nytimes.com/2020/07/08/world/asia/hong-kong-students-protests-china.html>; Kelly Ho, “No-one in Hong Kong schools should ‘hold any activities to express their political stance,’ says education chief, as protest song banned,” *Hong Kong Free Press*, July 8, 2020, <https://hongkongfp.com/2020/07/08/no-one-in-hong-kong-schools-should-hold-any-activities-to-express-their-political-stance-says-education-chief-as-protest-song-banned/>.
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