

Formal Submission

to the Secretary of State for Foreign,
Commonwealth and Development
Affairs Recommending Sanctions for
Involvement in Serious Violations of
Regulation 4, the Global Human Rights
Sanctions Regulation 2020 made under
Section 55(3), the Sanctions and
Anti-Money Laundering Act 2018

Recommendations submitted by



**FIGHT FOR FREEDOM
STAND WITH HONG KONG**

About Fight for Freedom Stand with Hong Kong

“Fight for Freedom. Stand with Hong Kong” is an independent, crowdfunded advocacy organisation consisting of individuals who have come together to fight for freedom and democracy for Hong Kong. Our members come from all walks of life and are united with a shared vision.

Since the 1997 Handover, we have witnessed China's sustained violations of Hong Kong's autonomy, freedoms, human rights, and the rule of law. China's conduct has been in breach of the 1984 Sino-British Joint Declaration — a legally binding treaty that is lodged at the United Nations, which also forms the basis of the 1992 US Hong Kong Policy Act. Defined by the Hongkongese resilient spirit, we work with the international community to take actions to protect Hong Kong's democracy and to hold China accountable.

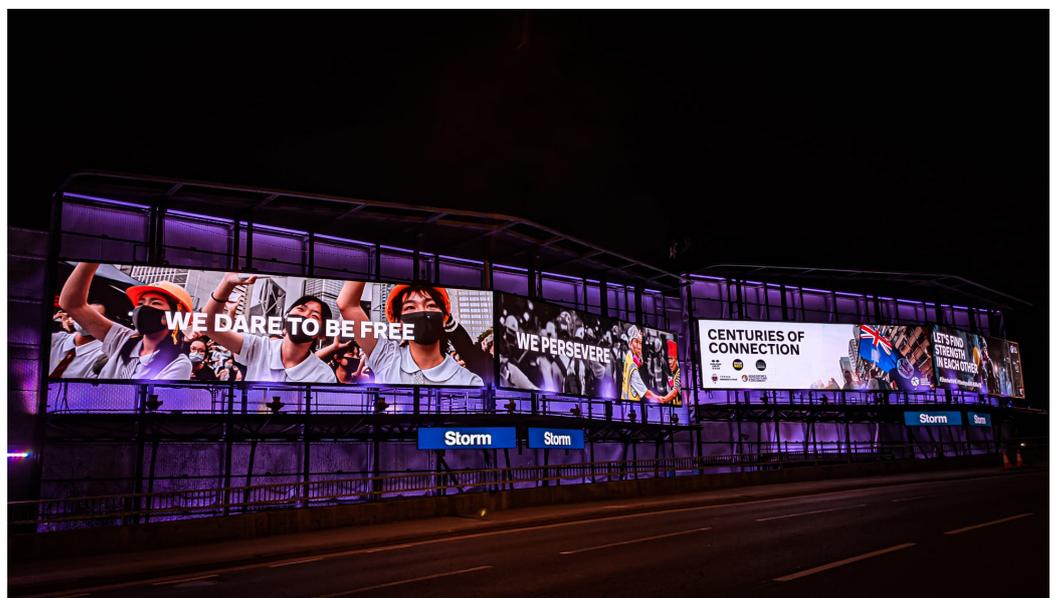
See our website for more information:
<https://www.standwithhk.org/about-us>

Our Campaigns

1. Submission of the request to **revoke the right of abode of Hong Kong Government officials in the UK, US and Australia**
2. Submission of the **excessive use of force by the Hong Kong Police to the High Commissioner of the United Nations Human Rights Office**
3. Submission of the request to **revoke the Hong Kong Chief Executive's Legion of Honour Distinction to the French Government**
4. Submission of the request to **revoke the right of abode of Hong Kong Secretary of Justice's husband in Canada**
5. Submission of the request to **urge the European Union to impose an arms embargo against the Hong Kong Police**
6. Submission of the **report of potential tax evasion by the Hong Kong Secretary of Justice's husband in Canada**
7. **An op-ed in the Financial Times, "Technology aids unity of Hong Kong movement"**
8. Submission of **a complaint of Junius Ho Kwan-yiu to the Solicitors Regulation Authority in England**
9. Submission of the **request to revoke the citizenship of British expats who were involved in the police crackdown on 12th June, 2019 to the UK Home Office**
10. Commencement of the crowdfunding campaign, which **formally initiated the "Fight for Freedom. Stand with Hong Kong." organisation**

Our achievements and activities since July 2019

1. Launched an advertising campaign in seven media outlets in the UK
2. Launched an advertising campaign on social media
3. Launched a billboard campaign in the UK and the US
4. Launched social media channels
5. Launched an online petition in the UK, with over 20,000 emails sent to MPs
6. Created multiple YouTube explainer videos on the movement and also the Sino-British Joint Declaration such as “Fight Against Tyranny, Stand With Hong Kong” video
7. Published a number of op-eds and received news coverage across UK and US



8. Arranged two speeches from Tom Watson MP and Heidi Allen MP for 16th August 2019 "Power to the People" Rally
9. Organised the "Power to the People" Rally in Hong Kong on 16th August, 2019 with a turn out of 60,000



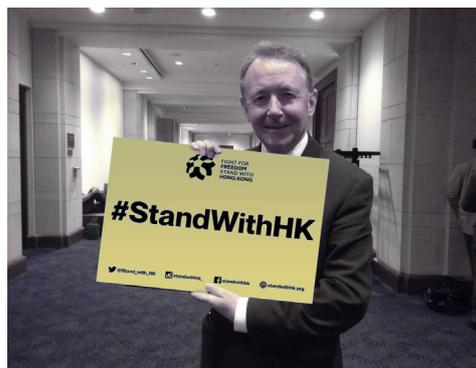
10. Arranged Bob Seely MP to visit Hong Kong on 31st August 2019
11. Arranged over 20 politicians from around the world to observe the District council election in Hong Kong in 2019.



12. Organised a number of Hongkongers to speak to US congressional staff and members over the situation in Hong Kong.
13. Published articles signed off by MPs in national and international media
14. 60 parliamentarians have officially stated China has breached the Joint Declaration
15. Publish briefing notes regularly on Hong Kong and shared with all members of both Houses of Parliament

Our achievements and activities since July 2019

16. Submitted a submission to the International Trade Select Committee
17. Tabled parliamentary questions to the Foreign Secretary
18. Hong Kong was raised in the Queen's Speech
19. A debate in the House of Lords, led by Lord Alton, was arranged



HUMAN RIGHTS IN HONG KONG

A roundtable discussion with:
**Shadow Minister for Asia and the Pacific,
Stephen Kinnock MP**

Chaired by Siobhain McDonagh MP, Vice Chair of APPG on Hong Kong

Wednesday 24th March
10:00am (GMT)
Online (WebEx)

**FIGHT FOR FREEDOM
STAND WITH
HONG KONG**

For more information, please contact
standwithhk@whitehouseconsulting.co.uk

A small portrait of Stephen Kinnock MP, a man with a shaved head wearing a dark suit and tie.

20. Published a research report on San Uk Ling Holding Centre
21. Expanded lobbying activities in the United States, the European Union, and other countries

**Hong Kong's National Security Law and the case of the 12 detainees
– What role for the EU in China's Human Rights Abuses?**

Co-hosted by:

ISABEL SANTOS MEP
(S&D, Portugal)

REINHARD BÜTIKOFER MEP
(Greens/EFA, Germany)

Moderated by:

PAULO DENTINHO
Senior International
Journalist, RTP
(Portugal)

With guest speaker:

NATHAN LAW
Pro-Democracy Activist,
Former Hong Kong
Legislative Council Member

15TH APRIL 2021 - 11AM CEST, ZOOM

Logos for the European Parliament (S&D), the European Parliament, and the 'FIGHT FOR FREEDOM STAND WITH HONG KONG' organization.

**TOGETHER
WE MAKE
A DIFFERENCE**

Email & tweet Congress to urge passage
of the Hong Kong Safe Harbor Act

Logos for the Hong Kong Democracy Council (HDC), the 'FIGHT FOR FREEDOM STAND WITH HONG KONG' (SWHK) organization, and 'HONG KONG WATCH'.

22. Supported the Secretarial work of IPAC (Inter Parliamentary Alliance on China) when it launched
23. Organised grassroots supporters of Hong Kong in the US to reach out to their congressional representatives in over 50 meetings

24. Partnered with the Atlantic Council in understanding how Hong Kong plays a role in the US-China relation in this post-NSL era
25. Supported over 100 rallies and events across the world financially and publicising some of them via our social media.
26. Co-organised event with NDI to train local grassroots groups that are supportive of Hong Kong.
27. Lobbied in Japan for Magnitsky Act with Bill Browder

Atlantic Council
SCOWCROFT CENTER FOR STRATEGY AND SECURITY

HONG KONG'S FUTURE ON EDGE: COUNTERING CHINA'S NATIONAL SECURITY LAW ONE YEAR ON
TUESDAY, JUNE 29 | 10:00 A.M. – 11:00 A.M.

REGISTER

Opening remarks

Former Senator Tom Daschle
President & CEO of The Daschle Group

Damon Wilson
Executive VP, Atlantic Council

featuring

Nathan Law
Former HK Legislative Council Member
Pritzker Fellow, Institute of Politics
University of Chicago

Ellen Bork
President, Committee For Freedom in Hong Kong

Walter Lohman
Director of Asian Studies Center
Heritage Foundation

Ash Jain
Senior Fellow
Atlantic Council

closing remarks

**FIGHT FOR FREEDOM
STAND WITH HONG KONG**



WEBINAR

Fight for Freedom. Stand with Hong Kong. and APPG presents:

Bill Browder: What's next for the British approach to Magnitsky sanctions and should more be done to embrace the movement?
8 pm UK | 3 pm NY | 17 Sept 2020

Bill Browder
The human rights activist behind the global Magnitsky-style sanctions movement

Baroness Natalie Bennett
British politician, former leader of the Green Party from 2012 to 2016, co-chair of APPG Hong Kong

A SWHK member, who will present their perspective from within the Hong Kong protest movement

**FIGHT FOR FREEDOM
STAND WITH HONG KONG**

**FIGHT FOR FREEDOM
STAND WITH HONG KONG**

REPORT: UK Government must ban organisations from conducting business with companies complicit in human rights violations in Hong Kong and China

Responsible Businesses in Hong Kong and China: Identifying, Assessing and Mitigating the ESG Risks

**FIGHT FOR FREEDOM
STAND WITH HONG KONG**

Capacity Building Workshops

Day 1 | July 23 2022 (tentative)

- A1 The Power of Documentation by HRW
- A2 Digital Security by NDI
- A3 Counter Disinformation by NDI
- B1 Accountable Investment by CIPE
- B2 Human Rights Capital Markets and Industry by Coalition for a Prosperous America
- B3 Grassroot Advocacy, Cause-based Marketing, and the Making of "The Hong Konger" by Acton Institute
- C1 Providing Mental Support by Human Rights Foundation
- C2 Organizational Expansion and Funding Application by Freedom House
- C3 Cryptocurrency and Philanthropy by Human Rights Foundation

HRW

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1. Executive Summary

As the signatory of the Sino-British Joint Declarations (the “**JD**”), the United Kingdom (the “**UK**”) has the legal and moral obligations to ensure that the obligations thereunder have been fulfilled by both parties. Due to the continuous breaches of the JD by the People’s Republic of China (the “**PRC**”), the UK government has taken steps to protect her own British National (Overseas) status holders. However, the PRC together with the Hong Kong SAR (“**HKSAR**”) government have not been properly held accountable for the breaches. This is largely due to the fact that the JD itself lacks a mechanism to enforce the fulfilment of the obligations.

Therefore, it is our submission that imposing sanctions on the involved persons of the breaches of the JD which constituted serious violations of the rights protected under Regulation 4 of the Global Human Rights Sanctions Regulations 2020 (the “**Regulations**”) during the protests against the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (the “**Extradition Bill**”) in 2019 (the “**Anti-Extradition Bill Protests**”) and the implementation of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the “**National Security Law**” or the “**NSL**”), aligns

with the purposes under Section 11(3) of the Sanctions and Anti-Money Laundering Act 2018 (the “**Act**”), namely (1) provide accountability for or be a deterrent to gross violations of human rights; (2) promote compliance with international human rights law; (3) promote respect for human rights; and (4) promote respect for democracy, the rule of law and good governance. Through sanctioning persons who are involved in the systemic violations of human rights, the UK government will contribute to maintaining an international rule-based order that respects the rule of law and democracy.

Accordingly, it is submitted that imposing financial and travel sanctions on the following involved persons is the most effective way to achieve the purposes under the Act. The involved person will be identified by their responsibility in different key events that occurred in Hong Kong during the period of 2019-2022.

The UK's international partner, the United States, has imposed human rights-related sanctions in accordance with the *Hong Kong Human Rights and Democracy Act of 2019* and the *Hong Kong Autonomy Act of 2020* respectively. Those with a "*" at the back of their names are individuals who were sanctioned by the United States.

1. Carrie LAM Cheng Yuet-ngor*

Lam was the Chief Executive of the HKSAR at the material time. She has repeatedly sanctioned and supported the action of HKPF in their use of excessive force on protesters during the Anti-Extradition Bill Protests. She led the HKSAR government in suppressing freedom of expression or assembly in Hong Kong.

2. John LEE Ka-chiu*

Lee was the Secretary for Security of the HKSAR at the material time. He was also responsible for the introduction of the Extradition Bill. Heading the security service, he was part of the HKSAR leadership in suppressing freedom of expression or assembly in Hong Kong. Lee is the incumbent Chief Executive of the HKSAR.

3. Teresa CHENG Yuek-wah*

Cheng was the Secretary for Justice of the HKSAR at the material time. She was responsible for the introduction of the Extradition Bill. She was part of the HKSAR leadership in suppressing the freedom of expression or assembly in Hong Kong.

4. Chris TANG Ping-keung*

Tang was the Deputy Commissioner of Police (Operations) at the material time. The HKPF besieged Hong Kong Polytechnic University under his leadership. He was part of the HKPF leadership in suppressing the freedom of expression or assembly in Hong Kong.

5. Stephen LO Wai-chung*

Lo was the Commissioner of Police at the material time, until his retirement in November 2019. Under his leadership,

over 4,000 protesters were arrested and 1,600 injured in clashes. Lo led the HKPF in suppressing the freedom of expression or assembly in Hong Kong.

6. Rupert Timothy Alan DOVER

Dover was a Chief Superintendent and the Deputy Regional Commander of New Territories South of the HKPF during the protest near the Legislative Council on 12 June 2019. He was later promoted to Assistance Commissioner of Police. He was the commander-in-charge of the clearance operations at the location. He was reportedly also one of the commanders that were responsible for the indiscriminate assault of citizens in Prince Edward Station on 31 August 2019.

7. David John JORDAN

Jordan was a Chief Superintendent and the Commandant of the Police Tactical Unit of the HKPF during the protest near the Legislative Council on 12 June 2019. He was one of the commanding officers at the location.

8. Justin SHAVE

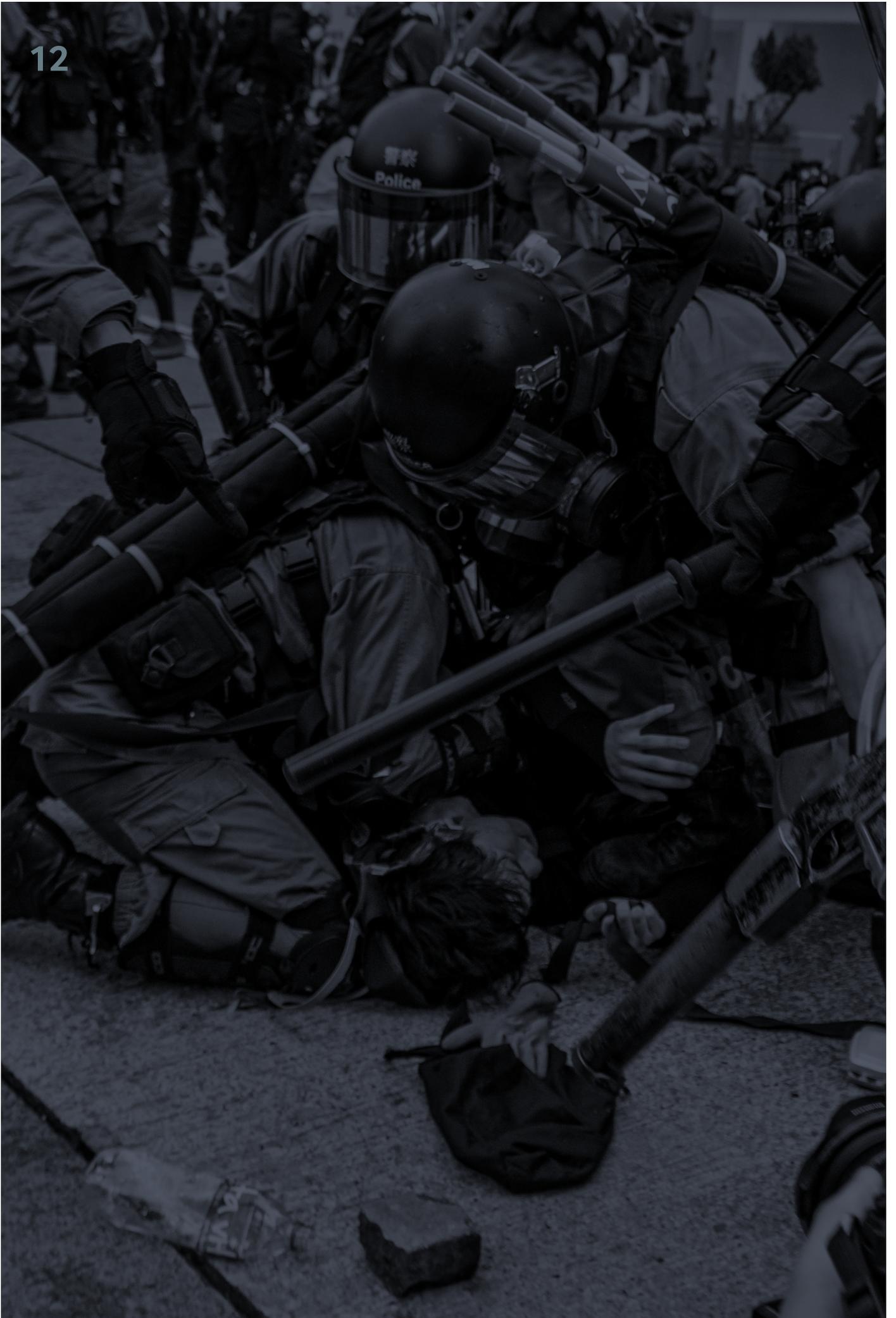
Shave was a Superintendent of Marine Police and one of the commanders of the police unit during the protest near the Legislative Council on 12 June 2019. He was reportedly also one of the commanders that were responsible for the indiscriminate assault of citizens in Prince Edward Station on 31 August 2019.

9. LEE Wai-man

Lee was the Yuen Long District Commander and Chief Superintendent for HKPF during the mob attack in Yuen Long MTR station on 21 July 2019.

10. YAU Nai-keung

Yau was the Assistant District Commander (Crime) for HKPF during the mob attack in Yuen Long MTR station on 21 July 2019.



11. LI Hon-man

Li was the Division Commander in charge of Pat Heung, an area located south of Yuen Long District for HKPF during the mob attack in Yuen Long MTR station on 21 July 2019.

12. Michael CHEUK Hau-yip

Cheuk was the West Kowloon Commander for the HKPF during the siege of the Hong Kong Polytechnic University.

13. Eric CHAN Kwok-ki*

Chan was the director of the Chief Executive Office, and appointed as the Secretary General of the Committee for Safeguarding National Security. He was part of the HKSAR leadership in suppressing freedom of expression or assembly in Hong Kong after the imposition of the NSL.

14. Erick TSANG Kwok-wai*

Tsang was the Secretary for Constitutional and Mainland Affairs of the HKSAR. He was part of the HKSAR leadership in suppressing freedom of expression or assembly in Hong Kong after the imposition of the NSL.

15. Edwina LAU Chi-wai*

Lau was the Deputy Commissioner of Police (National Security) for the HKPF. She was part of the HKSAR leadership in suppressing freedom of expression or assembly in Hong Kong after the imposition of the NSL.

16. Steve LI Kwai-wah*

Li was a Senior Superintendent of HKPF's National Security Department. He was part of the HKSAR leadership in suppressing freedom of expression or assembly in Hong Kong after the imposition of the NSL.

This submission focuses on the violations under the second limb of Regulation 4(2)(b)4, i.e. right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (“CIDTP”), during the Anti-Extradition Bill Protests and the implementation of the National Security Law. This submission highlights some specific incidents during the Anti-Extradition Bill Protests that demonstrate these violations, namely, the kettling of peaceful protesters near the Legislative Council, the mob attack in Yuen Long MTR Station, the indiscriminate assault of citizens in Prince Edward Station, and the siege of the Hong Kong Polytechnic University. The involved persons committed serious violations of right to life and the right to not be subjected to torture or CIDTP, which are protected under international and UK laws.

Some listed individuals and their immediate family have ties with the United Kingdom. Dover, Jordan, and Shave are British who are serving in the Hong Kong Police Force (“HKFP”). Officials such as Carrie Lam, her husband (LAM Siu-por) and two sons (Jeremy LAM Jit-si and Joshua LAM Yeuk-hei) hold British Citizenship. It is also believed the current Chief Executive John Lee’s wife (Janet LAM Lai-sim) and his two sons (Gilbert LEE Man-lung and LEE Man-chun) also hold British Citizenship.

We therefore submit that the UK government should impose sanctions on the above mentioned persons in accordance with the Regulations.

2. Involved Persons

2.1 The Individuals

Involved Persons who are or have been involved in activities under Regulation 4(2):



LAM, Carrie 林鄭月娥

4th Chief Executive of the HKSAR (2017-2022)

Primary name	LAM, Carrie
Given name variations	LAM CHENG, Carrie Yuet-ngor; a.k.a. LAM CHENG, Yuet-ngor; Chinese Traditional: 林鄭月娥; Chinese Simplified: 林郑月娥
Sex	Female
Date of birth	13 th May 1957
Place of birth	Hong Kong
Nationality(/ies)	Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Sanctioned by the US; Her husband Lam Siu-por and her sons Jeremy Lam Jit-si and Joshua Lam Yeuk-hei are British citizens.

LEE, John 李家超

8th Chief Secretary for Administration of the HKSAR (2021-2022)



Primary name	LEE, John
Given name variations	LEE, John Ka-chiu; a.k.a. LEE, Ka Chiu; Chinese Traditional: 李家超; Chinese Simplified: 李家超
Sex	Male
Date of birth	7 th December 1957
Place of birth	Hong Kong
Nationality	Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Sanctioned by the US; His wife Janet Lam Lai-sim and two sons are reportedly British citizens.¹

¹ 「港版國安法：港高官持英加澳物業 家人擁外國國籍」, on.cc, (30 May 2020) <<https://bit.ly/3EYjBbD>>



CHENG, Teresa 鄭若驊

4th Secretary for Justice of the HKSAR (2018-2022)

Primary name CHENG, Teresa

Given name variations CHENG, Teresa Yeuk-wah; a.k.a. CHENG, Yeuk-wah; Chinese Traditional: 鄭若驊; Chinese Simplified: 郑若驊

Sex Female

Date of birth 11th November 1958

Place of birth Hong Kong

Nationality(/ies) Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Sanctioned by the US; Her husband Otto Poon Lok-to is a Canadian citizen.



TANG, Chris 鄧炳強

Secretary for Security of the HKSAR (2021-present)

Primary name TANG, Chris

Given name variations TANG, Chris Ping-keung; TANG, Ping-keung; Chinese Traditional: 鄧炳強; Chinese Simplified: 邓炳强

Sex Male

Date of birth 4th July 1965

Place of birth Hong Kong

Nationality(/ies) Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Sanctioned by the US



LO, Steven 盧偉聰

Former Commissioner of Police (2015-2019)

Primary name LO, Stephen

Given name variations LO, Steven Wai-chung; a.k.a. LO, Wai-chung; Chinese Traditional: 盧偉聰; Chinese Simplified: 卢伟聪

Sex Male

Date of birth 19th November 1961

Place of birth Hong Kong

Nationality(/ies) Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Sanctioned by the US



Proposed sanctions to be imposed

Other information

CHAN, Eric 陳國基

Director of the Chief Executive's Office (2017-2022)

Primary name CHAN, Eric
Given name variations CHAN, Eric Kwok-ki; a.k.a. CHAN, Kwok-ki; Chinese Traditional: 陳國基; Chinese Simplified: 陈国基
Sex Male
Date of birth 5th April 1959
Place of birth Hong Kong
Nationality(/ies) Hong Kong

Asset freeze and travel ban

Sanctioned by the US



Proposed sanctions to be imposed

Other information

TSANG, Erick 曾國衛

Secretary for Constitutional and Mainland Affairs (2020-present)

Primary name TSANG, Eric
Given name variations TANG, Eric Kwok-wai; TSANG, Kwok-wai; Chinese Traditional: 曾國衛; Chinese Simplified: 曾国卫
Sex Male
Date of birth 1st September 1963
Place of birth Hong Kong
Nationality(/ies) Hong Kong

Asset freeze and travel ban

Sanctioned by the US; His wife is Louise Ho Pui-shan, Commissioner of Customs and Excise of the HKSAR, who sits on the Committee for Safeguarding National Security.



Proposed sanctions to be imposed

Other information

LAU, Edwina 劉賜蕙

Deputy Commissioner of Police (National Security) (2020-present)

Primary name LAU, Edwina
Given name variations LAU, Edwina Chi-wai; a.k.a. LAU, Chi-wai; Chinese Traditional: 劉賜蕙; Chinese Simplified: 刘赐蕙
Sex Female
Date of birth 29th July 1965
Place of birth Hong Kong
Nationality(/ies) Hong Kong

Asset freeze and travel ban

Sanctioned by the US



LI, Steve 李桂華

Senior Superintendent of the Hong Kong Police Force National Security Department

Primary name LI, Steve

Given name variations LI, Steve Kwai-wah; a.k.a. LI, Kwai-wah; Chinese Traditional: 李桂華; Chinese Simplified: 李桂华

Sex Male

Date of birth 22th November 1964

Place of birth Hong Kong

Nationality(/ies) Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Sanctioned by the US



DOVER, Rupert

Assistant Commissioner of Police; Regional Commander, Kowloon West

Primary name DOVER, Rupert

Given name variations Dover, Rupert Timothy Alan

Sex Male

Date of birth 19th August 1967

Place of birth the United Kingdom

Nationality(/ies) British

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

N/A



JORDAN, David

Assistant Commissioner of Police; Regional Commander of Marine

Primary name JORDAN, David

Given name variations Jordan, David John

Sex Male

Date of birth Likely 1966 or 1967 (52 years old in August 2019)²

Place of birth Singapore

Nationality(/ies) British

² "Spotlight: Recent situation "most dangerous" in 25 years, says senior Hong Kong police officer", Xinhua, (19th August 2019) <http://www.xinhuanet.com/english/2019-08/19/c_138320636.htm>

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

Former Royal Navy officer



Proposed sanctions to be imposed

Other information

SAHVE, Justin

Superintendent of Marine Police

Primary name Justin Shave
Given name variations N/A
Sex Male
Date of birth N/A
Place of birth the United Kingdom
Nationality(/ies) British

Asset freeze and travel ban

N/A



Proposed sanctions to be imposed

Other information

LEE, Wai-man 李偉文

Former Yuen Long District Commander of the Hong Kong Police Force; Consultant, Canfield Management Consulting Service Ltd.

Primary name Wai-man Lee
Given name variations Chinese Traditional: 李偉文;
Chinese Simplified: 李伟文
Sex Male
Date of birth N/A
Place of birth Hong Kong
Nationality(/ies) Hong Kong

Asset freeze and travel ban

N/A



Proposed sanctions to be imposed

Other information

YAU, Nai-keung 游乃強

Superintendent of the Crime New Territories North Headquarters of the Hong Kong Police Force

Primary name YAU, Nai-keung
Given name variations Chinese Traditional: 游乃強;
Chinese Simplified: 游乃強
Sex Male
Date of birth N/A
Place of birth Hong Kong
Nationality(/ies) Hong Kong

Asset freeze and travel ban

N/A



LI, Hon-man 李漢民

Superintendent of the Hong Kong Police Force

Primary name	LI, Hon-man
Given name variations	Chinese Traditional: 李漢民; Chinese Simplified: 李汉民
Sex	Male
Date of birth	N/A
Place of birth	Hong Kong
Nationality(/ies)	Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

N/A



CHEUK, Michael 卓孝業

Consultant, Security Wing of the Hong Kong Police Force

Primary name	CHEUK, Michael
Given name variations	Cheuk, Michael Hau-yip; Cheuk, Hau-yip; Chinese Traditional: 卓孝業; Chinese Simplified: 卓孝业
Sex	Male
Date of birth	N/A
Place of birth	Hong Kong
Nationality(/ies)	Hong Kong

Proposed sanctions to be imposed

Asset freeze and travel ban

Other information

N/A

2.2 UK Connections

Some of the involved persons or their immediate family members are British Citizens or they have British passports. Rupert Dover, David Jordan, and Justin Shave are expatriate British police officers who joined the Force before the handover.

3. The Legal Framework: SAMLA

3.1 Appropriateness/Who Can Be Sanctioned

The designation of one or more high ranking individuals within the above-mentioned entities would demonstrate the commitment and leadership of the United Kingdom to hold human rights violators accountable and ensure that criminal prosecution against individuals are aligned with international standards of fair prosecution.

The designation is appropriate with regard to the purposes under Regulation 4(2). It deters and provides accountability for the involved persons' involvement in the activities that amount to serious violation of the rights of the people of Hong Kong not to be subjected to torture or cruel, inhuman or degrading treatment or punishment.

As mentioned above, the problem of lack of accountability channels is particularly acute in Hong Kong, where there is no independent mechanism to investigate police misconduct.¹ Even if the IPCC was independent, it was difficult to report an individual officer's misconduct. That is due to the fact that identification of individual police officers has been almost impossible, as they often cover their face and eyes, and not display any identification on their uniform whilst on duty. As of today, the Hong Kong government still refuses to establish any independent inquiry into alleged police misconduct since 2019.

Not only did the authorities fail to hold the involved persons accountable, they were even promoted. For instance, John Lee Ka-chiu was shortly promoted from the Secretary of Security to the Chief Secretary

for Administration of Hong Kong, the most senior principal official of the Hong Kong government. Endorsed by the Beijing government, he later even replaced Lam as the Chief Executive of HKSAR on 1st July 2022. Chris Tang Ping-keung was also promoted from the Commissioner of Police to the Secretary for Security.

As such, sanctions are an appropriate tool against the human rights abuses in Hong Kong due to the ineffectiveness of the Hong Kong judicial and/or political system in providing Hongkongers with the necessary redress for the violations outlined within the submission. Furthermore, since most of the involved persons have been civil servants of Her Majesty's Government in Hong Kong before 1997, they have significant ties to the UK. As such, they would be particularly affected by travel and financial restriction under the Regulations. By asset-freezing the involved persons, this ensures that institutions of the UK are compliant with and uphold international human rights standards. This also ensures that they are not complicit in the further erosion of the freedom and rights of the Hong Kong people. By imposing travel restrictions and restricting the entry of these human rights violators into the country, this promotes national security of the UK. More crucially, it ensures that human rights violations will not go unnoticed and unpunished.

The UK's international partner, the United States, has imposed human rights-related sanctions in accordance with the *Hong Kong*

¹ Please refer to Section 2.1(a) of the submission.

Human Rights and Democracy Act of 2019 and the *Hong Kong Autonomy Act of 2020* respectively. Certain individuals within the designation for the purpose of this submission are amongst those who were sanctioned by the United States.² Designations of officials from or in relation to the above-mentioned entities would achieve the global effect of Magnitsky act, where the international community could collectively denounce and punish acts that violate international human rights standards.

Furthermore, the UK, as a signatory of the JD, has a moral and legal obligation to uphold the rights that are guaranteed under the JD. The acts committed by the designation above, has constituted violation of the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment. By sanctioning the high-ranking officials, it provides the UK with leverage when seeking China's compliance with its obligations under the JD. Considering the limited toolset to tackle the Hong Kong issue, imposing sanctions must be an option on the table to ensure that international treaty obligation, and an international rule-based system, is upheld.

The UK government has publicly commented that an evidentiary threshold of "reasonable grounds to suspect" is appropriate for sanctions; thus, a reasonable suspicion is enough to impose sanctions.³ Other sanctions regimes including the US and the EU also employ a standard of proof lower than that of

the criminal standard.⁴ This lower standard of proof is also seen in other sanctions legislation passed in the UK. Notably, under the Policing and Crime Act 2017, a civil standard of liability ("balance of probabilities") applies when determining financial sanctions.⁵ The circumstances in Hong Kong are not sufficiently distinct from other regions and activities sanctionable under UK law, and thus do not merit the higher legal standard of criminal liability. Therefore, the existing position of the UK government of applying a lower evidentiary threshold should continue with regards to Hong Kong-related sanctions.

In light of the foregoing, we submit that during the protests against the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (the "**Extradition Bill**") and the relevant events in relation to the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the "**National Security Law**" or "**NSL**"), the authorities of HKSAR government have subjected the citizens of Hong Kong to torture, or to inhuman or degrading treatment or punishment. Worse, it has failed to intervene and stop them when they became aware of such occurrences. Lastly, the HKSAR government took no initiative to investigate these incidents.

² US Department of the Treasury, "Treasury Sanctions Individuals for Undermining Hong Kong's Autonomy", (7th August 2020) <<https://home.treasury.gov/news/press-releases/sm1088>>

³ HM Government, "Public consultation on the United Kingdom's future legal framework for imposing and implementing sanctions Government response", page 6, (August 2017) <<https://bit.ly/3GQHcgt>> (accessed 4 th November 2021). See also Reg. 6(1) (a) of the Regulations.

⁴ 31 CFR § 501.732. (US evidentiary standard is a preponderance of the evidence, rather than a criminal standard of beyond reasonable doubt.); Joined cases C-584/10, C-593/10 and C-595/10: European Commission and Others v Yassin Abdullah Kadi, 18 July 2013 (EU evidentiary standard calls for a "sufficiently solid factual basis").

⁵ Policing and Crime Act 2017, part 8 <<https://www.legislation.gov.uk/ukpga/2017/3/part/8/enacted>> (accessed 4 th November 2021).



National Security Law advertisement in the Mass Transit Rail. Photo from Hong Kong Government

3. The Legal Framework: SAMLA

3.2 Right not to be tortured or inhumanely treated

⁶ Committee on Civil and Political Rights, General Comment No. 20 on article 7 of the International Covenant on Civil and Political Rights, para 4.

It is prohibited to subject any person to torture or to any treatment or punishment that is inhuman or degrading. The state has the obligation to prevent, investigate and protect vulnerable individuals from them.

The breach of such right must involve a minimum level of severity. It depends on the specific circumstances of each case.⁶ The state has the obligation to make sure the authorities do not subject anyone to torture, or to inhuman or degrading treatment or punishment. It also has the duty to intervene and stop torture, inhuman or degrading treatment or punishment as soon as they become aware of it even they are carried out by private individuals. Furthermore, the state must investigate any allegations of torture or of inhuman or degrading treatment or punishment.



4. The Facts: Human Right Abuses

4.1 Background and Context

The protests against the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (the “**Extradition Bill**”) intensified in June 2019.

On 9th June 2019, more than one million Hongkongers took to the streets to oppose the enactment of the Extradition Bill. In response to the mass protest, Carrie Lam, then Chief Executive of Hong Kong, insisted that a second reading and debate over the Extradition Bill be resumed on 12th June 2019.

The protesters successfully halted the resumption of the second reading by surrounding the Legislative Council (“**LegCo**”) building on 12th June 2019. On 15th June 2019, Carrie Lam announced the suspension of the Extradition Bill but did not fully withdraw the Extradition Bill. Two million Hongkongers took to the streets on 16th June 2019 to demand the withdrawal of the Extradition Bill and resignation of Carrie Lam, as part of the initial five demands. The demands fell on deaf ears. The protests persisted and were largely peaceful. There were clashes between the protesters and the Hong Kong Police Force (“**HKPF**”) when the use of force by the HKPF escalated. The protests quieted down due to the Covid-19 pandemic.

On 30th June 2020, the Standing Committee of the National People's Congress (the “**NPCSC**”) passed the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the “**National Security Law**” or “**NSL**”). The NSL resulted in several protests and the mass arrests of pro-democracy politicians and activists.

This submission summarises the events of how the HKSAR government and the HKPF systematically subjected citizens of Hong Kong to torture or cruel, inhuman or degrading treatment or punishment during protests with highlights of certain serious incidents, including the crackdown outside the LegCo on 12th June 2019, the mob attack on 21st July 2019, the indiscriminate attack of citizens by HKPF on 31st August 2019, the siege of the Hong Kong Polytechnic University in November 2019, and the protests and arrests due to the implementation of the NSL.

4.2 Event I: Anti-Extradition Bill Protest

4.2.A. Background



Thousands of Hong Kong lawyers silently march over controversial extradition bill on 6th June 2019. Photo from Stand News

In February 2018, Chan Tong-kai, a Hong Kong permanent resident, allegedly murdered his pregnant girlfriend, Poon Hiu-wing, also a Hong Kong permanent resident, while the two were on vacation in Taiwan. Chan then returned to Hong Kong, where he was arrested and detained by the police on money laundering charges after he was caught using Poon's bank card. The case was scheduled to be heard in April 2019.

In mid-February 2019, the HKSAR Government submitted a proposal to the LegCo to amend the existing extradition regime ("**Amendment Proposal**"), ostensibly to allow the HKSAR Government to handle Poon's murder case by surrendering Chan to Taiwan to stand trial there.

When the Fugitive Offenders Ordinance ("**FOO**") first came into force before the Handover on 25th April 1997, no rendition was allowed between Hong Kong and any other parts of the PRC. The prohibition is expressly stipulated in the FOO. Because Taiwan is regarded as a part of the PRC under Hong Kong law, Hong Kong authorities were legally barred from surrendering Chan to Taiwan unless the laws were amended.

The Taiwan murder case provided a justification for the HKSAR Government to push for the Amendment Proposal.

Grossly underestimating public opposition to the Amendment Proposal, the HKSAR Government announced a 20-day consultation period, far shorter than that of other controversial bills.

On 3rd April, the HKSAR Government introduced the Extradition Bill, which closely tracked the Amendment Proposal. A second reading of the Extradition Bill began on the same day. The HKSAR Government insisted that there was an urgent need to pass the legislation before July so that the legal basis for the surrender of Chan to Taiwan could be established before he was to be released from jail in October.

The legal profession shared the same view, but with serious reservations about the Extradition Bill's potential usage. There were grave concerns over the scope of the proposal, which far exceeded law enforcement cooperation between Hong Kong and Taiwan. More critically, the legal profession and local civil society groups were uneasy with China's criminal justice system.

After both the Hong Kong Law Society and the Hong Kong Bar Association urged the HKSAR Government not to rush the Extradition Bill through the legislative process, the rest of civil society soon caught on. Long-standing distrust with the Chinese authorities and concerns over the lack of fundamental human rights protections in mainland China led many in Hong Kong to doubt whether suspects would receive a fair trial across the border. These sentiments were exacerbated by high-profile incidents like the abduction of five Hong Kong booksellers in 2015, which had raised the spectre of fabricated criminal charges and forced confessions.

Even the expatriate community in Hong Kong, which had long felt immune from the impact of local politics, felt the sting. The scope of the Extradition Bill was broad enough to cover practically anyone on Hong Kong soil, whether the individual is local or foreign-born, holding a HKSAR passport or a foreign one, a permanent resident or a temporary visitor, living in Hong Kong or just passing through at the airport.

The normally politically reticent business community also began to speak up. In March, the Hong Kong General Chamber of Commerce repeatedly expressed concerns over the lack of legal safeguards in the Extradition Bill. They were joined by the American Chamber of Commerce, the Nordic Chambers of Commerce, and the International Chamber of Commerce. In May, Joseph Lau Luen-hung, one of the 500 richest people in the world and a wanted fugitive in Macau who resided in Hong Kong, mounted a judicial review against the Extradition Bill before it was officially introduced in the LegCo.

The business community had serious misgivings about both personal safety and commercial interests. The Extradition Bill would empower the HKSAR Government to accede to requests from mainland China to provide “legal assistance” such as searching, seizing of articles, freezing of assets, and enforcing confiscation orders. The questions of whether and how their properties, trade

secrets, proprietary information, confidential client data, and other business interests would be protected from the mainland Chinese authorities had made many in the business sector nervous.

By early summer, even the judiciary had jumped into the fray. In an unprecedented move, three senior judges, speaking anonymously to the media, warned that the Extradition Bill presented one of the starkest challenges yet to Hong Kong’s legal system. A High Court judge even openly signed an online petition opposing the bill, while a former vice president of the Court of Appeal issued a joint statement with 11 other former and current chairpersons of the Hong Kong Bar Association to express their concerns over the bill.

Reservations against the Extradition Bill spread around the world. Foreign governments including Australia, Canada, the UK, and the US all echoed similar concerns over China’s human rights records and lack of an independent judiciary. In May, the EU Office in Hong Kong issued a diplomatic *démarche* against the Extradition Bill. Seven international lawyers’ groups and human rights watchdogs issued a joint statement in June, warning that the Extradition Bill would “fundamentally imperil the operation of the rule of law in Hong Kong.” The German Bar Association went further to urge the HKSAR government to permanently withdraw the Extradition Bill.

4.2.B. Event I: Summary of evidence relating to the Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment

Mass arrest



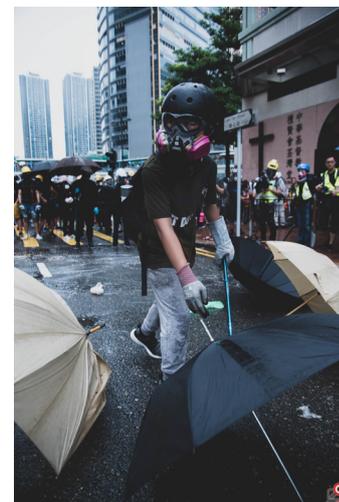
Mass arrest by Hong Kong Police Force on 1st October 2020. Photo by Studio Incendo

More than 10,000 citizens were arrested in the Anti-Extradition Bill Protests between 2019 and 2020. Of the 10,242 arrested, 2,521 had undergone or were undergoing judicial proceedings, including 720 charged with rioting. Among the 2,521 charged, 614 were convicted.¹

Only about 25% of the arrestees had been brought to legal proceedings. These statistics called into question whether the police's primary objective was to disperse crowds or render arrest. They also suggested that a significant portion of arrests were arbitrary or made without sufficient basis to support a conviction. The figures corresponded with a surge in complaints over the police's indiscriminate arrests, often made on the vague charge of "unlawful assembly" of bystanders and residents in their own neighbourhoods who were not at the time involved in a protest.

The cost of an arrest is high: the financial burden of legal defence can be staggering and the limitations on personal mobility — curfews, restraining orders and travel restrictions — imposed by bail conditions are cumbersome. The mere threat of an arrest is enough to discourage citizens from taking part in street demonstrations, peaceful or otherwise. In addition to the high number of arrests, many arrested protesters were charged with rioting, which is a serious offence carrying a maximum prison sentence of 10 years.

Hong Kong is a signatory of the United Nation Convention on the Rights of the Child (UNCRC), the HKPF should uphold the principle of acting in the best interest of the children as the paramount consideration when it comes to maintaining law and order during protests. A lot of underage teens were arrested in their secondary school uniform with no justifiable suspicions even though they did not provoke the conflict with the police officers, in many circumstances they are only pedestrians passing-by. In circumstances where protests were happening, many frontline protesters were minors, and the youngest protester who was arrested was only 12 years old. As stated in Article 37 of the UNCRC that no child should be subject to torture or other cruel, inhuman and degrading treatment or punishment, and also (b) of the aforementioned treaty that "arrest, detain or imprisonment" should only be used "as a measure of the last resort", which is also incorporated in the domestic law (Police General Ordinance).



A child on the front lines of a protest
Photo by SocREC Facebook Page



Police questioned three girls in school uniforms in Mong Kok on 27th March 2020
Photo by Studio Incendo

¹ Ng Kang-chung, "Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers", South China Morning Post, 9th April 2021, <<https://bit.ly/3BKOT3V>> (accessed 23rd April 2021).

2 Amnesty International, "How not to police a protest: Unlawful use of force by Hong Kong police", (21st June 2019) <<https://www.amnesty.org/en/documents/asa17/0576/2019/en/>> (accessed 7th March 2021).

3 Holmes Chan, "Video: Hong Kong police make bloody arrest, assisted by officers suspected to be undercover as protesters", Hong Kong Free Press, (12th August 2019) <<https://bit.ly/3crlm1L>> (accessed 7th March 2021).

4 Holmes Chan, "Natural reaction' for gun-wielding officer to kick kneeling man, Hong Kong police say", Hong Kong Free Press, (26th August 2019) <<https://bit.ly/3cq4hX5>> (accessed 7th March 2021).

During Arrests

There are a large number of videos showing police beating or using excessive force against citizens, including protesters or bystanders, despite the fact that they were already under restraint.²

It was commonly seen that the riot police violently abused the subdued arrestees by slamming and stomping their heads on the ground, dragging them long distances and pressing their knees on subdued arrestees' necks.³

An example of one incident was on 25th August 2019, when an armed officer was caught on video kicking an unarmed man kneeling at his feet. In response to this incident, the HKPF described the abusive behaviour of the officer as "natural reaction" and had "acted heroically and with restraint".⁴

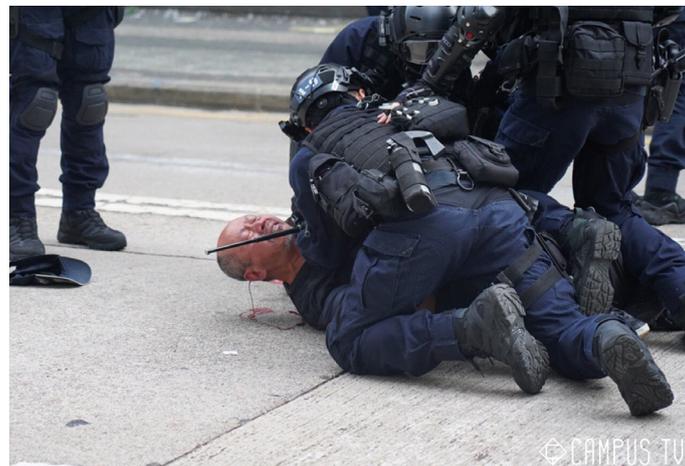
Another example was on 21st September 2019, when an unarmed volunteer from the Protect Our Kids Campaign, was arrested and taken into an alley where he was surrounded by approximately 30 riot police officers. A resident living in a building nearby took a video which showed that the man was being beaten and kicked by the riot police officers. HKPF spokesman Vasco Williams claimed that the video was unclear and unsure what the "yellow object" being kicked by the officers was.

HKPF Chief Superintendent John Tse Chun-chung later admitted that the "yellow object" was in fact a person but maintained that it was not clear if that person was being kicked.

The lack of accountability of the HKPF and an independent mechanism to investigate the misbehaviour of the police officers encouraged the increased use of force with a more aggressive manner by the frontline officers.



The police officer knocking out the protester's front teeth. Then he put his face down on the ground. The statement said that it's not torture. Photo from Stand News



The police officer knocking out the protester's front teeth. Then he put his face down on the ground. The statement said that it's not torture. Photo from Stand News



One can see a police officer assaulting an unarmed citizen, causing panic and distress at the bottom of the escalator with an exit sign on top. Photo from AP

During crowd dispersal

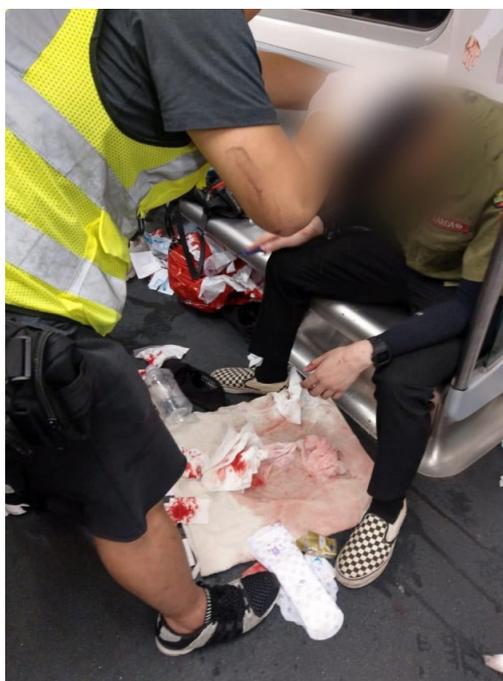
The HKPF deployed a wide range of weapons during the protests. This included tear gas canisters, rubber bullets, bean bag rounds, sponge grenades, pepper balls, water cannons and live ammunition. The frequency and the wide use of these lethal weapons were widely challenged by local and international human right groups.

Baton and pepper spray

The use of the baton by the HKPF has been controversial since the Umbrella Movement in 2014. In 2016, the Independent Police Complaint Council urged the police to follow up on an investigation into a case whereby a police officer allegedly assaulted a citizen with a baton during the 2014 pro-democracy Umbrella Movement protests.⁵ Separately, Frankly Chu King-wai, a police superintendent before he retired, was found guilty for assaulting a pedestrian with a baton without prior warning during the Umbrella Movement protest.⁶

There are a large number of videos showing the HKPF and its special tactic squad using the “less-lethal” weapons intentionally beating the heads of civilians causing life-threatening injuries. For example, on 31st August, passengers in Prince Edward station were subjected to beatings by batons despite

they were already kneeled.⁷ This reflected that the HKPF did not minimise the harm that they might cause, also resorting to the use of force more than necessity and the objective of maintaining law and order.



A first aider treats a passenger who was assaulted by the police in the Prince Edward Station on 31st August, 2019. He wasn't arrested. Photo from Apple Daily.

⁵ Stanley Leung, “Independent police watchdog urges investigation into Umbrella Movement baton assault case”, Hong Kong Free Press, (28th November 2016) <<https://bit.ly/3o0AATN>> (accessed 12th March 2021).

⁶ Kris Cheng, “Hong Kong’s top court rejects final appeal by retired cop Frankly Chu over Occupy pedestrian assault”, Hong Kong Free Press, (21st January 2019) <<https://bit.ly/3GQFJ9N>> (accessed 12th March 2021).

⁷ <https://www.theguardian.com/world/2019/aug/31/hong-kong-braced-for-weekend-of-protests-despite-cancellation-of-march>

8 K.K. Lai and Austin Ramzy, “1,800 Rounds Of Tear Gas: Was The Hong Kong Police Response Appropriate?”, The New York Times, (18th August 2019) <<https://nyti.ms/2XH1eFM>> (accessed 7th March 2021).

9 Kris Cheng, “Hong Kong police used crowd control weapons 30,000 times since June; over 6,000 arrested”, Hong Kong Free Press, (10th December 2019) <<https://bit.ly/3mLrgUE>> (accessed 5th November 2021).

10 Elson Tong, “Chaotic showdown in Wong Tai Sin as angry residents clash with Hong Kong riot police firing tear gas”, Hong Kong Free Press, (4th August 2019) <<https://bit.ly/3bF7luH>> (accessed 8th March 2021).

11 “This video shows Hong Kong police firing tear gas at Kwai Fong station in August 2019”, AFP Australia, 14th August 2019, <<https://bit.ly/2ZSARzM>> (accessed 4th November 2021).

12 Kris Cheng, “Hong Kong police fire tear gas in Central against protesting crowds”, Hong Kong Free Press, (11th November 2019), <<https://bit.ly/3CLwTYI>> (accessed 8th March 2019).

13 Linda Lew, “Hong Kong police apologise for tear-gassing pharmacy and restaurant during protests”, South China Morning Post, 28th October 2019, <<https://bit.ly/3BLVDOT>> (accessed 8th March 2019).

14 Holmes Chan, “15-year-old struck by projectile at Hong Kong protest in critical condition”, Hong Kong Free Press, (14th November 2019) <<https://bit.ly/3EKI12j>> (accessed 8th March 2021).

15 林勵, 「警稱催淚彈開支敏感 申訴專員裁定毋須公開 倫敦公開槍火開支」, Citizen News, (9th June 2020) <<https://bit.ly/3EJ0GS1>> (accessed 7th March 2021).

16 Rachel Wong, “Amnesty launches tear gas campaign site as Hong Kong police ordered to reveal ingredients”, Hong Kong Free Press, (12th June 2020) <<https://bit.ly/3nUB4ep>> (accessed 7th March 2021).

17 Holmes Chan, “15-year-old struck by projectile at Hong Kong protest in critical condition”, Hong Kong Free

Tear gas

During the crackdown outside the LegCo on 12th June 2019, the HKPF used tear gas for the first time in the Anti-Extradition Bill protests. By August, it was reported that there were more than 1,800 tear gas canisters had been deployed;⁸ by early December, around 16,000 rounds.⁹

It was commonly seen that the HKPF fired tear gas in highly-dense areas or even confined areas. On 3rd August 2019, tear gas was fired in the residential area of Wong Tai Sin.¹⁰ On 10th August 2019, the HKPF fired tear gas inside the Kwai Fong MTR station.¹¹ On 10th November 2019, the HKPF fired tear gas during lunch time in the business district in Central.¹² It was also reported that the HKPF shot tear gas into shops and apartments. The HKPF apologised to a pharmacy and restaurant in Yau Ma Tei for shooting tear gas canisters inside on 27th October 2019.¹³ A resident at Chuk Lam Court in Sha Tin district recounted that the HKPF had fired a tear gas canister into his fifth-floor apartment, breaking a window.¹⁴

Despite repeated requests, the HKSAR government refused to disclose the list of ingredients and denied the existence of dioxin, a known carcinogen, in the fumes. Citizen News on 9th June 2020 reported that HKPF had refused to disclose the cost, origin, manufacturers, and safety guidelines of tear gas in accordance with the Code of Access to

Information for the past five years due to the topic’s “sensitivity.”¹⁵ Then Legislator Ted Hui filed a legal action in the High Court of HKSAR and the court ordered the HKPF to submit a written statement detailing the chemical content of tear gas within 35 days.¹⁶

On 13th November 2019, a 15-year-old boy was struck in the head by a suspected tear gas canister and left in critical condition.¹⁷

A group of doctors conducted interviews with 170 frontline reporters and found that after police used tear gas on 28th July 2019 in Sheung Wan, 96.2 percent of respondents said they had difficulty breathing, persistent coughing or coughed up blood; 72.6 percent said they developed skin conditions such as rashes, redness or itching; 53.8 percent said their eyes tearing or swelling; and 40.6 percent said they had gastrointestinal symptoms such as diarrhoea or vomiting.¹⁸

A Hong Kong frontline reporter, Chan Yu-hong of Stand News revealed in a Facebook post that he had been diagnosed with chloracne. The condition is a “rare skin eruption of blackheads, cysts and nodules, which has been linked directly to dioxin exposure”.¹⁹ Dioxins can cause cancer, reproduction and developmental problems, according to the World Health Organisation. They are highly toxic and can also interfere with hormones and the immune system.



A police officer fired tear gas inside the Kwai Fong MTR station. Photo by Felix Lam (@HK.Imaginaire)

The health minister of the HKSAR Government denied the tear gas poses major public health and environmental risks in December 2019. Medical sector lawmaker Pierre Chan said that Queen Elizabeth Hospital medics had doubts over the Health Department's instructions on how to clean up after tear gas owing to a lack of transparency about its chemical composition.²⁰

Chemical irritant or riot-control agent such as tear gas and pepper spray are dangerous chemical weapons that should be handled with great caution owing to the risk serious injury from asphyxiation.²¹ As a result, the use of riot control agents in warfare is explicitly forbidden by international law (see

the 1925 Geneva Protocol²² and the 1993 Chemical Weapons Convention²³). However, there were multiple instances where tear gas was deployed in confined space in spite of the international guidelines which strictly prohibited such use. Repeated exposure of tear gas during a short time period without adequate ventilation can cause breathing difficulties, nausea and vomiting, or even a risk of death from asphyxiation (Geneva Guidance, para. 7.3.5). Examples include: the firing of tear gas into the Taikoo and Kwai Fong MTR station on 11 August 2019²⁴, as well as the firing of tear gas on 12th June 2019 from Lung Wui Road near CITIC Tower on 12th June 2019.

Press, (14th November 2019) <<https://bit.ly/3GOI3PN>> (accessed 8th March 2021).

18 Holmes Chan, "Hong Kong reporters coughed blood and developed rashes after tear gas exposure, doctors say", Hong Kong Free Press, (9th August 2019) <<https://bit.ly/3BNS3nv>> (accessed 7th March 2021).

19 Hong Kong Free Press, "Hong Kong reporter diagnosed with chloracne after tear gas exposure, prompting public health concerns", Hong Kong Free Press, (14th November 2019) <<https://bit.ly/3wefRj6>> (accessed 7th March 2021).

20 Hong Kong Free Press, "Hong Kong health chief says no evidence tear gas poses public health risks", Hong Kong Free Press, (20th November 2019) <<https://bit.ly/3mLl0w5>> (accessed 7th March 2021).

21 Repeated exposure of chemical irritants should be avoided. Use of chemical irritants can temporarily cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, tear ducts, and eyes; spasms; chest pains; dermatitis; and allergies. In high doses, it can cause necrosis of the tissue in the respiratory tract and the digestive system, pulmonary oedema, and internal bleeding. See: Abdullah Yaşa and others v. Turkey (2013) ECHR 839, para.30.

22 United Nations, Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, 17 June 1925, available at: <https://www.refworld.org/docid/4a54bc07d.html>.

23 United Nations, The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 3 September 1992, available at: https://www.icrc.org/en/doc/assets/files/other/1993_chemical_weapons.pdf.

24 Damien Gayle and Kate Lyons, Hong Kong protest: police fire teargas at demonstrators – as it happened, The Guardian, (12 June 2019), <<https://www.theguardian.com/world/live/2019/jun/12/hong-kong-protest-demonstrators-and-police-face-off-over-extradition-bill-live?page=with:block-5d00b1838f0863265fe9832d>>



Tear gas fired into homes causes severe property damage, fire hazards, distress and health risks for the residents. Photo from Stand News



A 15-year-old is in critical condition after being shot by a tear gas canister and suffering fractures in his skull. An witness stated that three others were also suffering from head injury caused by the same cause. They believe the police officers target the head and private region on purpose to cause harm. Photo from Stand News

25 United Nations Office of the High Commissioner for Human Rights, "United Nations Human Rights Guidance Less-Lethal Weapons Law Enforcement," para. 7.5.1, (2020) <<https://bit.ly/2z9W8I5>> (accessed 6th November 2021).

26 United Nations Office of the High Commissioner for Human Rights, "United Nations Human Rights Guidance Less-Lethal Weapons Law Enforcement," para. 7.5.1, (2020) <<https://bit.ly/2z9W8I5>> (accessed 6th November 2021).

27 Kris Cheng, "#Eye4HK campaign in support of Hong Kong protesters gains international momentum," Hong Kong Free Press, (22nd August 2019) <<https://bit.ly/3es1VIC>> (accessed 10th March 2021).

28 Kris Cheng, "Hong Kong riot police target journalists during Sunday unrest, as reporter shot in the eye with projectile", Hong Kong Free Press (30th September 2019) <<https://bit.ly/2ysi5Ss>> (accessed 10th March 2021).

29 Abdullah Yasa and others v. Turkey (2013) ECHR 839.

30 Mahajna, A. et al (2002). Blunt and penetrating injuries caused by rubber bullets during the Israeli-Arab conflict in October, 2000: a retrospective study. *The Lancet*, 359(9320), 1795-1800.

31 OHCHR Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.



Empty rubber bullet shell. Photo from Jonathan van Smit.

Rubber bullets, bean bag rounds and other projectiles

These projectiles are recommended to only tackle violent individuals or those who pose "an imminent threat of injury to either a law enforcement official or a member of the public". They are not recommended to fire at close range because it will cause serious injuries or even death.²⁵

On 12th June 2019, secondary school teacher Raymond Yeung was shot in the eye by a police projectile while attending a protest outside the Government Headquarters.²⁶

On 21st July 2019, the police fired at least 36 rubber bullets, a large number of bean bag rounds and pepper-spray projectiles at protesters outside the China Liaison Office in Sheung Wan even after the situation had already been brought under control.

On 11th August 2019, a first-aider was shot in the eye allegedly by a bean bag round, which sparked a global "#Eye4HK" campaign.²⁷

It was reported that the police fired pepper ball rounds indiscriminately at protesters and passengers at point-blank range inside the Tai Koo MTR station on 11th August 2019.

On 29th September 2019, Indonesian reporter Veby Mega Indah was shot in her right eye by a police projectile, permanently losing vision in that eye. It was clear from a video that no "violent individuals" were posing any "threat of injury" to either the police or the public, and that the police were not aiming to strike the lower body of whomever they were aiming to shoot. Instead, the officers appeared to be blindly shooting at no apparent target, resulting in an innocent journalist being permanently disabled and disfigured.²⁸

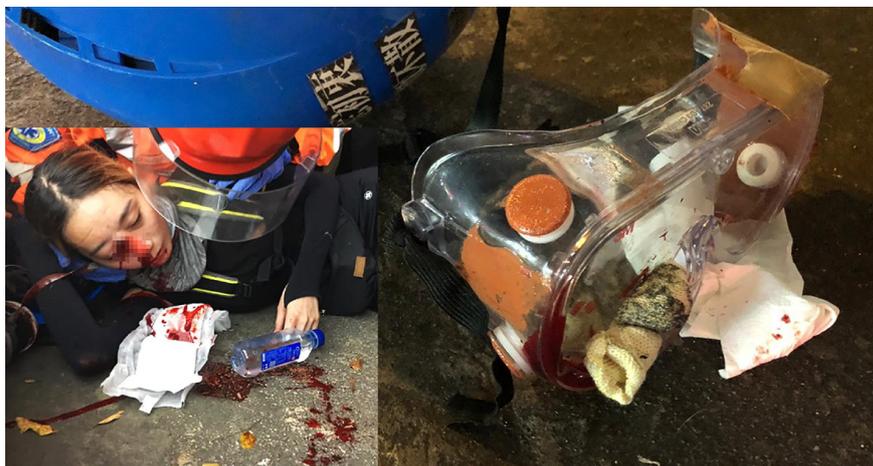
By the end of October 2019, 2,400 rubber bullets, over 700 sponge grenades, and over 500 bean bag rounds have been fired during the Anti-Extradition Bill Protests.

The number of the projectiles fired and the serious injuries suffered by the victim are self-evident proof that the HKPF were not using these projectiles in accordance with international principles. For example, in Abdullah Yasa and others in Turkey (2013) ECHR 839²⁹, the applicant was struck in the face by a tear gas grenade fired from a launcher and consequently sustained serious injuries, namely "a facial oedema, a fractured nose bone and a series of concave incisions", which had been acknowledged as having caused "moderately severe damage to his vital functions". It was considered as amounting to

CIDTP. A study³⁰ which examined 152 cases of injuries caused by rubber bullets in the context of the Israeli-Arab conflict in 2000 found that “the body region most vulnerable to fatal penetrating rubber-bullet injury was the anterior part of the face with its thin bony structures, with particular susceptibility of the eyes”. Among the 27 cases of injuries made to the face, two patients suffered permanent blindness, and two others died after a penetrating ocular injury into the brain. In accordance with Principle 9 of the OHCHR Basic Principles on the Use of Force and Firearms by Law Enforcement Officials³¹, “intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life”. Most of the participants at the protest scenes were not engaged in any violence activity nor were they armed at the time of the shooting. A majority of them were merely participating in a peaceful assembly and exercising their freedom of speech. **In the absence of an imminent threat of death or serious injury, we submit that the use of rubber bullets was not “strictly unavoidable”. Such use of force was therefore unjustified and amounted to CIDTP. It is therefore submitted that the use of these projectiles constituted torture, cruel, inhuman or degrading treatment and punishment under Regulation 4(b).**



The police officer in the MTR station lobby fired shots at protesters at point-blank range on 11th August, 2019. Screenshot from Apple Daily



A first aider's right eye was blinded by a bean bag round that broke her goggles on 11th August, 2019. Photo from Socrec 社會紀錄頻道



An Indonesian report was also blinded by a bean bag round on 29th September 2019. Photo from Apple Daily

32 Holmes Chan, "Hong Kong police deploy water cannon against protesters for the first time, as clashes break out in Tsuen Wan", Hong Kong Free Press, (25th August 2019) <<https://bit.ly/2z393LJ>> (accessed 11th March 2021).

33 Emily Tsang, "Indelible blue dye fired from water cannons by Hong Kong police – protesters adjust with new clothes and removal tips", South China Morning Post, (1st September 2019) <<https://bit.ly/2XRMLXX>> (accessed 11th March 2021).

34 Holmes Chan, "Hong Kong police deploy water cannon against protesters for the first time, as clashes break out in Tsuen Wan", Hong Kong Free Press, (25th August 2019) <<https://bit.ly/2z393LJ>> (accessed 11th March 2021).

35 Jennifer Creery and Kris Cheng, "Video: Hong Kong police accused of targeting mosque with water cannon blue dye as communities conduct clean-up", Hong Kong Free Press, (20th October 2019) <<https://bit.ly/3agCWoH>> (accessed 11th March 2021).

Water cannons:

The HKPF first deployed the truck-mounted water cannons on 25th August 2019³² and water mixed with indelible blue dye was used for the first time on 31st August 2019.

Protesters complained about the blue dye producing a "stinging sensation".³³ Greenpeace suggested that the dye itself contained a tear spray solution.³⁴ The HKSAR

government refused to disclose the chemical composition but maintained that the chemicals used were "harmless".

On 20th October 2019, a mosque in the district of Tsim Sha Tsui was hit and defaced by a HKPF water cannon. A video showed it clearly that a blue-dyed agent was shot directly at the structure in the absence of any protesters nearby. The HKPF claimed that the spraying was unintended.³⁵



A mosque was hit by a water cannon on an empty street with a few journalists and bystanders. Photo from Apple Daily



Top: A Hong Kong police officer pointed a gun at an unarmed citizen who was trying to mediate

Bottom Left: The unresponsive protester had been shot in the kidney and liver.

Bottom Right: A 14-year-old student is the first victim of a live round bullet.

Live ammunition

On 25th August 2019, the HKPF fired the first live round during a standoff with protesters in Tsuen Wan.³⁶ On 1st October 2019, the HKPF fired warning shots at protesters at multiple locations. In Tsuen Wan, a secondary school student brandishing a rod was shot in his chest. It was noted that the officer had non-lethal weapons at his disposal but chose not to use them.³⁷

On 4th October 2019, another 14-year-old student was shot in the thigh by a plainclothes police officer.³⁸

On 11th November 2019, two protesters were shot in Sai Wan Ho during a confrontation with the police. One of them was in critical condition.

It is our observation that each of the injuries caused by live rounds occurred after the amendment of the Police General Orders which significantly widened the discretion afforded to police officers and allowed a higher level of force to be used.³⁹ The intentional lethal use of firearms represents a gross violation of human rights as it is not “strictly unavoidable in order to protect life.”⁴⁰

³⁶ “Shot fired as protesters and police clash in Hong Kong”, South China Morning Post, (25th August 2019) <<https://bit.ly/3cqr5WL>> (accessed 5th November 2021).

³⁷ Mike Ives, “Hong Kong Police Shoot a Protester, 18, With a Live Bullet for the First Time”, The New York Times, (1st October 2019), <<https://nyti.ms/3CLky6p>> (accessed 11th March 2021).

³⁸ Kris Cheng, “Hong Kong protester shot by police with live round in critical condition”, Hong Kong Free Press, (11th November 2019), <<https://bit.ly/3k7cKVw>> (accessed 11th March 2021).

³⁹ Clare Jim, “Hong Kong police change guidelines on use of force in protests”, Reuters, (4th October 2019) <<https://reut.rs/3mJlz8w>> (accessed 11th March 2021).

⁴⁰ Principle 9 of the OHCHR Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

⁴¹ Owen Bowcott, "Kettling protesters is lawful, appeal court rules", *The Guardian*, (19th January 2012) <<https://bit.ly/3etRrc9>> (accessed 12th March 2021); Paul Lewis, "Human rights court backs police 'kettling'", *The Guardian*, (15th March 2012) <<https://bit.ly/3bkuRRs>> (accessed 12th March 2021).

⁴² Maina Kai, "The United Nations Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mission to the United Kingdom of Great Britain and Northern Ireland", (8th June 2017) <<https://bit.ly/3bN8c24>> (accessed 6th November 2021).

⁴³ Kris Cheng, "Hong Kong democrats question police 'kettling' tactic during Sha Tin mall clearance, as pro-Beijing side slams violence", *Hong Kong Free Press*, (15th July 2019) <<https://bit.ly/2KrEbat>> (accessed 11th March 2021).

⁴⁴ Geneva Academy of International Humanitarian Law and Human Rights, "New Human Rights Guidance on the Use of Less-Lethal Weapons", 15 October 2019, available at: <https://www.geneva-academy.ch/news/detail/269-new-human-rights-guidance-on-the-use-of-less-lethal-weapons>.

⁴⁵ *Ibid.*

Kettling:

"Kettling" was a crowd control tactic used by the HKPF during protests. Officers would surround a crowd of people into an area and not let anyone leave that area. This police tactic has been subject to heavy criticism and legal challenges on the grounds of human rights violations. Although both the UK Court of Appeal and the European Court of Human Rights ruled that kettling was lawful, the tactic remains highly contentious.⁴¹ Maina Kai, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, called the tactic "inherently detrimental to the exercise of the right to freedom of peaceful assembly due to its indiscriminate and disproportionate nature."⁴²

During the crackdown outside the LegCo on 12th June 2019, the police used this tactic together with firing tear gas at the protesters. For a detailed account of the incident, please see Section 4.2 of this submission.

On 14th July 2019, the HKPF stormed the New Town Plaza shopping mall in Sha Tin and prevented people from leaving the premises. The HKPF ordered the closure of the train station connected to the mall, trapping protesters and shoppers inside. Local human rights group Civil Rights Observer issued a statement and criticised the HKPF's lack of legal backing to confine peaceful protesters and residents inside the defence line of the HKPF in the mall.⁴³

On 31st August 2019, following a clash between protesters and counter-protesters, battalions of riot police raided the Prince Edward MTR station. The MTR Corporation closed the station shortly thereafter, allowing officers to kettle the station, trapping

protesters, passengers, and bystanders on platforms, escalators and trains. For details, please refer to Section 4.4 of this submission.

We wish to draw attention to the 2019 publication of the advanced edition of the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement⁴⁴ issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in October 2019 - outcome of research and broad consultations carried out under the auspices of the Geneva Academy and the University of Pretoria (hereinafter referred to as the "Geneva Guidance"). As the Academy stated in its website, the publication of the advanced version of the Guidance was prompted by the recent events in Hong Kong and Iraq, which show that, "use of force during assemblies raises major challenges under International human rights law".⁴⁵

The HKPF frequently used so-called "less-lethal" weapons during assemblies or protests in a manner that contravened international guidance and caused unnecessary and disproportionate harm to civilians. In particular, the use of kinetic impact projectiles (eg rubber bullets, bean bag rounds, and sponge rounds) against the head, face or neck (para. 7.5.8 of the Geneva Guidance); firing of irritant projectiles at protesters (para. 7.3.8 of the Geneva Guidance); use of chemical irritants in confined space (para. 7.3.7 of the Geneva Guidance); and the use of these weapons without clear prior warning. Instances of violence perpetrated by counter-demonstrators also persisted in the context of the Anti-Extradition Bill movement, in spite of the fact that concerns have been raised by the Committee Against Torture of United Nations in its 2015 Concluding Observation.



封鎖了源禾路及担杆莆街路口



經其他商場駁天橋向新城市繼續走



但當示威者去到新城市



有警察再由大會堂百步梯趕入新城市



全副武裝的防暴警察亦都到場



⁴⁶ Tom Grundy, Jennifer Creery and Rachel Wong, "Court rules MTR must release CCTV footage to student caught up in Prince Edward Station police raid", Hong Kong Free Press, (18th March 2020) <<https://bit.ly/2XM8mB2>> (accessed 16th April 2021).

⁴⁷ Kris Cheng, "Hong Kong police accused of driving vehicles into protesters during clearance operation", Hong Kong Free Press, (19th November 2019) <<https://bit.ly/3mOYRwM>> (accessed 16th April 2021).

⁴⁸ *Keremedchiev v Bulgaria* (257/2004) CAT/41/D/257/2004.

Other forms of excessive force:

On 11th November 2019, a police officer was caught on a smartphone video ploughing his motorcycle into a crowd of protesters. The act was performed three times, knocking some protesters to the ground and causing a stampede. The officer was reinstated by the HKPF after being taken off frontline duties for a brief period.⁴⁶ On 18th November, a police van sped into a crowd of protesters in Yau Ma Tei during a clearance operation, causing a stampede on a crowded street. At a press conference, the HKPF defended the act, claiming that "*driving fast isn't necessarily unsafe. Our officers are well-trained.*"⁴⁷

The pain and suffering arising from such excessive use of force amounted to CIDTP. In *Keremedchiev v. Bulgaria*,⁴⁸ the victim suffered "multiple bruising on various external parts of his body, to the extent that the injuries inflicted caused bruising to his kidneys and blood in his urine". The Committee Against Torture found "the complainant's injuries too great to correspond to the use of proportionate force by two police officers, particularly as it would appear that the complainant was unarmed". Whilst conceding that such ill-treatment did not amount to torture, the Committee did consider that the treatment of complainant by the police officials amounts to acts or CIDTP.



Screenshot of police vehicle running into the crowd



Yau Ma Tei Stampede

During detention:

Physical abuse:

In a report entitled "Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed", Amnesty International documented cases of "torture or other cruel, inhuman and degrading treatment" against arrested persons in police vehicles, police stations, and holding facilities. The report was based on extensive interviews with arrested persons, lawyers, and health workers who reported incidents of violence such as severe beatings by multiple officers resulting in hospitalisation and the shining of laser pens into the eyes of persons in custody at close range, in apparent retribution for the use of laser pens by protesters against police officers during protests.⁴⁹

Robert Godden, a British human rights observer, reported that during a 15-hour detention, he and a female colleague were denied access to food, deprived of sleep, and verbally abused with racial and sexual slurs. Godden also recalled hearing "howls of pain" in the police station from other detainees during his custody.⁵⁰

It was reported that protesters complained that when they asked for water during detention, the officer gave them seawater scooped from a toilet bowl.⁵¹

Sexual assault:

On 5th August 2019, during the arrest of a female protester, the lower half of her body was partially stripped and she was carried into the police station by police officers in a position that exposed her crotch to the press and the public.⁵²

On 27th September 2019, a male protester in the rally held in Edinburgh Place alleged that he was sexually assaulted while detained at San Uk Ling. He claimed that he was stripped naked with his hands tied to a table, head hooded, and sexually violated by at least two police officers.⁵³

It is known that a female university student from the Chinese University of Hong Kong (CUHK), namely Sonia Ng, has spoken publicly about her experiences of being sexually assaulted by unknown police officers during the detention and eventually led to the University's principal, Rocky Tuan Sung-Chi publishing an open letter to the HKPF questioning if the human rights of these students are being well-protected during the detention.⁵⁴

The Association Concerning Sexual Violence Against Women conducted a survey in August 2019, in which 46 out of 221 respondents reported varying degrees of sexual violence by police officers, including allegations of threats of rape and the use of sexual slurs and insults. One victim accused the police of assaulting her genitals with hard objects, while another was force-fed diuretics and denied the use of a lavatory resulting in urinary incontinence.⁵⁵

⁴⁹ Amnesty International, "Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed" (19th September 2019) <<https://bit.ly/2VEGxYr>> (accessed 22nd April 2021).

⁵⁰ "Rights Observer Claims Jail Abuse", The Standard, (27th November 2019) <<https://bit.ly/3cokNa2>> (accessed 22nd April 2021).

⁵¹ Kris Cheng, "Arrested protesters accuse police of ill-treatment in detention and denial of access to lawyers", Hong Kong Free Press, (15th August 2019) <<https://bit.ly/3colpMS>> (accessed 22nd April 2021).

⁵² Kris Cheng, "Hong Kong police fire tear gas following protest against treatment of female protester", Hong Kong Free Press, (5th August 2019) <<https://bit.ly/3q8Sk2d>> (accessed 6th November 2021).

⁵³ 「【關注新屋嶺】男被捕者：四肢綁架腳裸搜 遭性侵酷刑」, Citizen News, (28th September 2019) <<https://bit.ly/3GWLSkF>> (accessed 22nd April 2021).

⁵⁴ Rachel Wong, "4 Hong Kong police unions accuse Chinese University head of fuelling fierce protest battle last year", Hong Kong Free Press (6th November 2020) <<https://hongkongfp.com/2020/11/06/4-hong-kong-police-unions-accuse-chinese-university-head-of-fuelling-fierce-protest-battle-last-year/>> (accessed 31st August 2022)

⁵⁵ 「女示威者控訴港警磨下體 餵利尿劑害尿失禁」, Apple Daily Taiwan, (29th August 2019) <<https://bit.ly/3kcfoJB>> (accessed 6th November 2021).



On August 23, Miss Lu held a press conference in which she described being sexually assaulted by a police officer.

56 警方：4次使用新屋嶺扣留182名反修例被捕人士 30人需送院接受診治, Stand News, (8th April 2020) <<https://collection.news/thestandnews/articles/115367>> (accessed 31st August 2022)

57 「【逃犯條例】3被捕學童被判入兒童院 兒童權利委員會斥做法不當」, HK01, (3rd September 2019) <<https://www.hk01.com/社會新聞/371174/逃犯條例-3被捕學童被判入兒童院-兒童權利委員會斥做法不當>> (accessed 1st September 2022)

58 「北角持棍漢打人 警:警署被圍致遲3小時到場」, Ming Pao, (7th August 2019) <<https://bit.ly/2yIUItA>> (accessed 23rd April 2021).

59 「【北角白衣人襲擊示威者警方4小時後到場 稱受包圍警署等影響】 【目擊者指警方接報後警署沒包圍 有警車駛出】」, i-Cable News, (8th August 2019) <<https://bit.ly/2VjVj0C>> (accessed 23rd April 2021).

60 "Four Attacked Amid High Tension in North Point", RTHK News, (11th August 2019) <<https://bit.ly/3bKiSiY>> (accessed 6th November 2021).

61 「9.15 北角福建幫打人經過」, Stand News, (15th September 2019) <<https://bit.ly/2XK6QPD>> (accessed 23rd April 2021).

62 「福建幫無法無天亂打人 警員到場竟推開記者」, Hong Kong Baptist University Students' Union Editorial Board, (15th September 2019) <<https://bit.ly/2VhThVT>> (accessed 23rd April 2021).

63 「【9.15衝突】北角拘29人包括七地膽 警指以盾為白衣人遮面合情」, HK01, (16th September 2019)

Abusive use of detention centres:

The detention centre, San Uk Ling Holding Centre was a detention centre that is supposed to be used for detaining illegal immigrants only. However, during the 2019 protests, arrested protesters are being sent to this centre. San Uk Ling Holding Centre is located in a remote location, close to Hong Kong's border with China. The facility has no security camera installed inside to monitor the detention process, and it is not equipped with basic medical appliances. 182 individuals were detained in San Uk Ling, 30 of them required medical treatment in hospital after being detained in the facility.⁵⁶

Children's homes were also used to hold and detain arrested minor protesters inappropriately. On 29th August 2019, three arrested teenagers aged between 13 to 15 were sent to a children's home, which is supposed to be only used when they are experiencing family violence, as listed out in Cap. 213 Protection of Children and Juveniles Ordinance. Their legal guardian stated that they were willing to fulfil their legal obligations of taking care of and protecting them. One of them was being detained in the centre for 27 days, during this period she was unable to go to school.⁵⁷

Collusion with mobs and triad members

Apart from the 7.21 or 21st July Incident, there were other instances where the HKPF appeared to collude with local triad members and mobsters - or at least acquiescence in their violence against pro-democracy protesters.

On the evening of 5th August 2019, around 30 white-shirted men brandishing metal rods and bamboo canes began to attack black-clad protesters and bystanders in North Point.

The HKPF admitted to receiving reports of the incident at 7:40pm but did not arrive at the scene until 11:00pm.⁵⁸ At a press conference, a police spokesperson explained that the North Point Police Station had been surrounded by "violent protesters" at the time, which prevented officers from being dispatched. However, the police's account was contradicted by photographs taken at 7:44pm that night by i-Cable News showing that the road outside the said police station was clear and that police vans left the station at around 8:00 pm but drove away from the scene.⁵⁹

On 11th August, similar acts of violence occurred in North Point again, involving white- and red-shirted men, resulting in a number of arrests.⁶⁰

On 15th September, another series of attacks involving local mobs occurred in North Point.⁶¹ A police officer was caught on camera arriving at the scene and pushing reporters aside instead of stopping the violence.⁶² One of the white-shirted assailants was seen being led away by the police without being restrained, while other officers used their shields to block reporters' cameras. The HKPF defended these actions, claiming that the person in question had requested to be escorted to safety and denying any preferential treatment towards pro-Beijing nationalists over pro-democracy protesters.⁶³

Treatment of professional groups:

Medical aids:

During the Anti-Extradition Bill Protests, the medical aids were very often mistreated by the HKPF. Other than the first aider who was shot in the eye allegedly by a bean bag round, medical workers on the frontlines were subject to regular verbal abuse and arbitrary arrest by the police, which violated established principles of medical neutrality.

Another prominent example of how the first aiders were mistreated was during the Siege of the Hong Kong Polytechnic University as illustrated in Section 4.6.

Journalists:

On 24th August 2020, a study presented at the Annual Conference of the International Society for Environmental Epidemiology surveyed 230 journalists covering the protests in Hong Kong during October and November 2019, revealed that about 95 per cent of the journalists said they had been exposed to tear gas; while around 50 percent had been pepper sprayed and exposed to water cannons. Forty-three respondents said they had been stuck by tear gas canisters and 35 people said

they were hit by rubber bullets. 30 percent of them experienced respiratory symptoms such as coughing, burning throat, and breathing difficulties; Over 25% reported they had diarrhoea; 6% of them had vomited after being subjected to crowd control weapons; Around one fourth said they faced female reproductive problems, namely disruption to their menstrual cycle; and 70 percent showing symptoms of moderate or severe depression.⁶⁴

Social workers:

On 27th July, Lau Ka-tung, a social worker and a member of the Reclaiming Social Work Movement, was arrested at a protest in Yuen Long and charged with obstructing the police.⁶⁵

On 31st August, Jackie Chen Hung-sau, a social worker, was arrested at a protest in Causeway Bay and charged with rioting.⁶⁶

On 31st October, several social workers were beaten in the head with batons and pepper sprayed at close range when they entreated the police not to harm an elderly woman.⁶⁷

<<https://bit.ly/2XL38W8>> (accessed 23rd April 2020).

⁶⁴ Kelly Ho, "Hong Kong journalists face health issues after 94% exposed to crowd control weapons at protests – study", Hong Kong Free Press, (27th August 2020) <<https://bit.ly/3K6jHGk>> (accessed 8th March 2021).

⁶⁵ Jasmine Siu, "Five men in Hong Kong court over Yuen Long clashes amid extradition bill anger", South China Morning Post, (30th July 2019) <<https://bit.ly/3agh0dr>> (accessed 23rd April 2021).

⁶⁶ "Social Workers Condemn Unreasonable Arrests", The Standard, (4th September 2019) <<https://bit.ly/2RQNNQ6>> (accessed 23rd April 2021).

⁶⁷ See video by Broadcast News Network, (31st October 2019) <<https://bit.ly/2VBMh5u>> (accessed 18th April 2020) as reported by Kris Cheng, "Hong Kong Social Workers Complain Of Mistreatment By Riot Police", Hong Kong Free Press, <<https://bit.ly/2xEcU1x>> (accessed 23rd April 2021).



Ms. Jackie Chen Hung-sau, a social worker was arrested.



4.3 Event 2: Kettling Peaceful Protesters Near the Legislative Council on 12th June 2019

4.3.A. Background

Following a march on 9th June attended by 1.03 million people demanding the withdrawal of the Extradition Bill, the Hong Kong government refused to withdraw the bill and proceed to resume the second reading of the bill on 12th June.

On 12th June 2019, around 46,000 protesters surrounded the streets around the Legislative Council to prevent legislators from attending

the legislative session to pass the proposed amendments to the Extradition Bill.

The protest was largely peaceful but was met with a disproportionately brutal police response. The protest marked the beginning of a continuing and escalating pattern of police brutality in the months which followed.



The Hong Kong Police Force fired tear gas from both sides of Lung Wui Road, causing panic among the trapped peaceful protesters, who then sought refuge in the CITIC tower lobby through the revolving door and a small side door, nearly resulting in a stampede. Photo from MO's Notebook 4G and am 730

4.3.B. Event 2: Summary of evidence relating to the Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment

The incidents on 12th June have been summarised in Amnesty International's report entitled "How not to police a protest: Unlawful use of force by Hong Kong Police".⁶⁸ The authors of the report reviewed footage provided by the public and from different media outlets which covered the events live. In particular, a video published online has a visual depiction of the events near CITIC Tower.⁶⁹

The Civil Human Rights Front had obtained police approval to hold a protest outside the CITIC Tower, a building opposite to the Legislative Council Building and as a result several thousand peaceful protesters were gathering in the area. At around 4pm, the police shot at least nine rounds of tear gas on both sides, and into the crowd outside

CITIC Tower, effectively kettling the protesters gathered there. As the only means of escape was through a revolving glass door into CITIC Tower, the police did not leave a safe means of escape when tear gas was used and protesters were subjected to tear gas for a prolonged period.

A number of peaceful protesters were brutally beaten by police batons on several occasions near the LegCo. The protesters were not acting violently or resisting and they were brutally beaten by a group of riot police officers after being subdued.

The police also used batons to disperse journalists on the night of 12th June 2019. The riot police also refused to give way to an ambulance running lights.

⁶⁸ Amnesty International, "How not to police a protest: Unlawful use of force by Hong Kong police", (21st June 2019) <<https://www.amnesty.org/en/documents/asa17/0576/2019/en/>> (accessed 7th March 2021).

⁶⁹ The demise of Hong Kong, "Hong Kong Police Brutality: Siege of CITIC Tower 'I thought I was gonna die.'", (20th June 2019) <<https://www.youtube.com/watch?v=PQj62FhFRHo>> (accessed 8th September 2021).

4.4 Event 3: Mob Attack in Yuen Long MTR Station

4.4.A. Event 3: Background of the Incident

70 「【經緯線】元朗黑夜」, Now TV, (29th July 2019) <<https://www.youtube.com/watch?v=B8QRzVbfl-CQ>> (Time stamp: 2:28)

71 Ibid. (Time stamp: 3:29)

72 Ng Kang-chung, "Veteran press executive Arthur Shek resigns after controversy over 'caning' remarks at Hong Kong pro-police rally", South China Morning Post, (24 Jul 2019) <<https://bit.ly/3bPAskG>>

73 「【經緯線】元朗黑夜」, Now TV, (29th July 2019) <<https://www.youtube.com/watch?v=B8QRzVbfl-CQ>> (Time stamp: 4:34)

74 「【經緯線】元朗黑夜」, Now TV, (29th July 2019) <<https://www.youtube.com/watch?v=B8QRzVbfl-CQ>> (Time stamp: 3:39-3:56)

Prior to 21st July 2019, there were telltale signs that an attack by the pro-Beijing white-shirt mob would occur in Yuen Long. The head of the New Territories Branch of the Liaison Office of the Central People's Government in the HKSAR said on the inauguration ceremony of the Shap Pat Heung Rural Committee (a committee that has strong association with the rural villagers in Yuen Long) that he was confident that Yuen Long should be well-prepared to protect its own district and no one would dare to start any trouble there.⁷⁰

At a pro-police rally on 20th July 2019, a Shap Pat Heung resident told a *Now TV* reporter that protesters would head to Yuen Long to "start some troubles" on the following day, and Yuen Long residents would do all they could to protect the area. He told reporters to go to Yuen Long on 21st July to record footage of a "good show".⁷¹

At the same occasion, Arthur Shek Kang-chuen, then-associate publisher of the Hong Kong Economic Times and executive director of the newspaper group, urged people to take

action against the protesters by using canes and water pipes. Amongst those attended include former Secretary for Justice Elsie Leung Oi-sie and former Commissioner of Police Tang King-shing.⁷²

As part of the Anti-Extradition Bill Protests, a protest to the Liaison Office of the Central People's Government in Sheung Wan was held on 21st July 2019. During the protest, police deployed 55 tear gas canisters, five rubber bullets, and 24 sponge bullets to disperse protesters. Protesters dispersed at around midnight.

In the evening of the same day, in Yuen Long, around 45 minutes by public transport away from Sheung Wan, a group of white-shirt mobsters started to gather. Some citizens called the emergency hotline of the HKPF to report the development.⁷³ Yuen Long District Councillor Johnny Mak Ip-sing also notified the police about the potential attack since he noticed a few hundred men in white shirts were carrying weapons and gathering in Fung Yau Street North in the area.⁷⁴



On the evening of July 21st, the man who told a reporter at the Police Rally the day prior that a good show will be held in Yuen Long was spotted holding a rod close to the mob attack. Screenshot from 【經緯線】元朗黑夜





Top Left Calvin So, a victim of Yuen Long Mob attacks, shows his wounds at a hospital. The perpetrators are still at large.
Photo by Anthony Wallace AFP

Top Bottom Ryan Lau, a former TVB reporter and one of the Yuen Long Mob Attack victims got 8 stitches in his head.
Screenshot from 「鏗鏘集：721元朗黑夜」

Top Right A citizen pass-by got brutally beaten up by the White Shirt Mob
Screenshot from 「鏗鏘集：721元朗黑夜」

On the day after the attack, most businesses were closed in Yuen Long. More than 10 countries issued travel alerts to Hong Kong as a result. Since then, the impartiality of the HKPF has been seriously challenged, due to the alleged collusion with the pro-Beijing mobs and suspected triad members.

As a result of the indiscriminate attack by the white-shirt mob against MTR passengers and passer-bys in the station with steel rods and bamboo sticks, at least 45 people were injured including elderly people, children, journalists, and a lawmaker.

Despite more than 20,000 calls made to the emergency hotline, the police only arrived 39 minutes after the attack, which was one

minute after the mobs left the scene. It was reported that police stood by in a nearby police station and no arrests were made that night. The police stations nearby in the district shut their doors, despite a large group of residents who were there to report crimes.

Journalists have been trying to unearth the truth about the inaction by the police, and particularly, over the alleged collusion between the police and the mob on the night of 21st July. RTHK, the Hong Kong public broadcaster, produced two investigative programmes over the incident.⁷⁵ Bao Choy Yuk-ling, one of the producers, was charged for making a false declaration when searching for personal details of car owners in the government database. She was fined HK\$6,000 (£570).⁷⁶

⁷⁵ 「鏗鏘集：7.21誰主真相」, RTHK, (13th July 2020) <<https://podcast.rthk.hk/podcast/item.php?pid=244&eid=163445&year=2020&lang=en-US>>

⁷⁶ Candice Chau, "Hong Kong court fines journalist HK\$6,000 for use of public records in documentary about police", Hong Kong Free Press, (22nd April 2021) <<https://bit.ly/3GVohkp>>.

4.4.B Event 3: Summary of evidence relating to human rights abuses

77 「元朗站恐襲 22:41 近距一鏡到底 12分鐘」, hk.feature, (20th July 2020) <<https://www.facebook.com/watch/?v=785073072234947>>.

78 「鏗鏘集：721元朗黑夜」, RTHK, (29th July 2019) <<https://podcast.rthk.hk/podcast/item.php?pid=244&eid=141443&lang=zh-CN>> (Time stamp: 2:14-2:25)

79 「【經緯線】元朗黑夜」, Now TV, (29th July 2019) <<https://www.youtube.com/watch?v=B8QRzVbflCQ>> (Time stamp: 10:18)

80 「鏗鏘集：721元朗黑夜」, RTHK, (29th July 2019) <<https://podcast.rthk.hk/podcast/item.php?pid=244&eid=141443&lang=zh-CN>> (Time stamp: 3:01-3:25)

81 Ibid. (Time stamp: 10:13-10:25)

82 Ibid. (Time stamp: 7:16–9:52)

83 「【經緯線】元朗黑夜」, Now TV, (29th July 2019) <<https://www.youtube.com/watch?v=B8QRzVbflCQ>> (Time stamp: 7:45–9:36)

84 Ibid. (Time stamp: 6:59-7:04)

85 「鏗鏘集：721元朗黑夜」, RTxHK, (29th July 2019) <<https://podcast.rthk.hk/podcast/item.php?pid=244&eid=141443&lang=zh-CN>> (Time stamp: 17:02)

86 「【經緯線】元朗黑夜」, Now TV, (29th July 2019) <<https://www.youtube.com/watch?v=B8QRzVbflCQ>> (Time stamp: 11:32)

Most evidence is retrieved from documentaries. They are produced by *hk.feature*,⁷⁷ *RTHK*, and *Now TV* respectively. *Details of the documentaries are attached in Annex A.*

Police inaction during the attack:

Hundreds of white-shirt mobs holding weapons started to assemble in a park in Yuen Long.⁷⁸ Many residents in Yuen Long requested police assistance to handle the escalating situation but not a single police officer appeared at the scene to investigate.⁷⁹ A witness at Fung Yau Street North, Yuen Long, believed that at peak there were 600-700 people associated with the attack, and that such a large group of people would have alerted the police about the potential attack. Yet, he did not see a single officer on duty the whole night.⁸⁰ CCTV footage also revealed that at least three police vans passed by a suspicious group of white-shirt men in Fung Yau Street North but failed to take any

action.⁸¹ Where possible, the police did not even stop and search any of these suspicious white-shirt men. The lack of any enforcement action shows that it was a deliberate inaction on part of the police.

Eventually, the white-shirt mobs indiscriminately attacked passers-by on streets⁸², before storming into Yuen Long MTR station to assault commuters with bats, sticks and metal poles.⁸³ Two police officers subsequently arrived at the MTR station, did not intervene and left the scene, without even making any verbal warnings to the white-shirt mobs.⁸⁴ A police squad finally arrived at the station 39 minutes after the violent attack, by then, the white-shirt mobs had already dispersed.⁸⁵ The Yuen Long MTR station was shut down early as per police request, before the police squad leaving the scene again. Shortly afterwards, white-shirt mob forced open the station's shutters and launched a second wave of attack indiscriminately on commuters.⁸⁶



The suspicious activities of the white shirt mob on Fong Yau Street were reported to the police, but the police failed to investigate. Photo credit by Francis Ho Facebook



兩名巡邏警員十一分鐘後

Arriving 11 minutes later, two patrolling police officers turned their backs and walked away from the white shirt mob attack. Screenshot from 【經緯線】元朗黑夜



Top Left & Right Both staffed police stations in Yuen Long shut their gates and disregarded any citizen reports regarding the white shirt mob attack. Screenshot from *When a Mob Attacked Protesters in Hong Kong, the Police Walked Away* | Visual Investigations by The New York Times



Top Left & Right On multiple occasions, the police force strolled past the white shirt mob after the premeditated attack at Yuen Long Station without interfering. At approximately 2:35 a.m., the police arrived the area where the white shirt mob had gathered. The tape reveals that the police officers had a brief conversation with the individuals in white shirts before patting them on the shoulder. The white shirt mobs were then released. Screenshot from *When a Mob Attacked Protesters in Hong Kong, the Police Walked Away* | Visual Investigations by The New York Times

4.5 Event 4: Indiscriminate Assault of Citizens in Prince Edward Station

4.5.A. Event 4: Background of the Incident

⁸⁷ Amnesty International, "Hong Kong: Rampaging police must be investigated", (1st September 2021) <<https://bit.ly/3woKemY>>

⁸⁸ 「【專訪】一度成浮屍傳聞主角「韓寶生」 8.31 太子站被捕者 被控暴動後流亡英國」, Stand News, (31st August 2020) <<https://bit.ly/3mQLTyN>>

31st August 2019 was the fifth anniversary of the NPCSC's 31st August decision, in setting limits for the Legislative Council and the Chief Executive elections. The Civil Human Rights Front applied to hold a protest in relation to the anniversary, yet it was rejected by the police. Thousands of protesters took to the streets on Hong Kong Island in the afternoon. Clashes between the police and the protesters occurred outside the Central Government Complex in Admiralty, as well as in the areas of Wan Chai and Causeway Bay. Around 9pm, some protesters crossed the harbour to continue protesting in Tsim Sha Tsui, Kowloon. The attack inside the Prince Edward MTR station occurred around 10:45pm.

At the time, a large group of police officers stormed into the Prince Edward MTR station platform and train compartments, and attacked commuters indiscriminately. The operation led to numerous injuries, including children and pregnant women, with some

victims even becoming comatose. Despite the scale of injuries caused by the police operation, the police ordered all journalists and first-aiders to leave the station. The police deliberately obstructed the injured persons' access to medical help. Ambulance staff were delayed by an hour in treating the injured, as the police twice denied their entry into the station, claiming no one was injured. Amnesty International expressed that "[t]he horrifying scenes at Prince Edward metro station fell far short of international policing standards".⁸⁷

In response to the public backlash caused by the highly questionable police operation, the police have arbitrarily arrested, and with the assistance of the Department of Justice, maliciously charged victims in the station that night. This includes an arrestee who was subsequently charged with eight charges, inter alia, rioting, criminal damage, causing injury to other persons, assault and robbery.⁸⁸





4.5.B Event 4: Summary of evidence relating to human rights abuses

⁸⁹ See videos in: Lily Kuo and Erin Hale, "Hong Kong protests: riot police storm metro station with batons", *The Guardian*, (1st September 2019) <<https://bit.ly/3woRqjl>> (Time stamp: 0:32-0:36 and 0:41-0:42); Ilaria Maria Sala, "Hong Kong is having flashbacks to the bad old days of police corruption and mafia ties", *Quartz*, (1st September 2019) <<https://bit.ly/3CUg39Z>>

⁹⁰ Robyn Dixon, Ryan Ho Kilpatrick, "I thought I was about to die": Eye-witnesses describe brutal beatings by Hong Kong police", *Los Angeles Times*, (2nd September 2019) <<https://lat.ms/3bLkgke>>

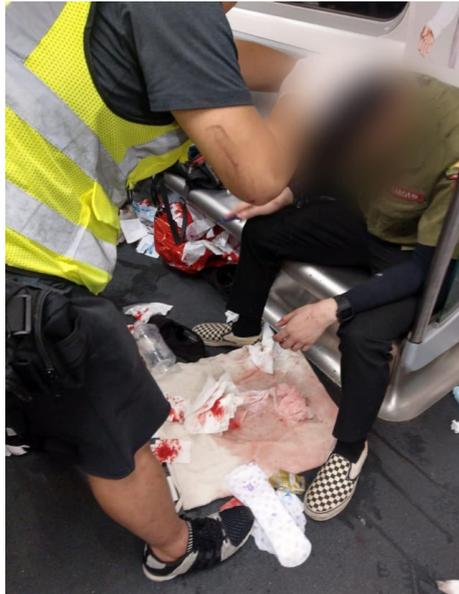
⁹¹ 「31AUG2019太子車廂警拉人足本」, SocRec, (31 August 2019) <<https://www.youtube.com/watch?v=vlau2kwxzZA>> (Time stamp: 0:06-0:11)

⁹² <<https://www.youtube.com/watch?v=JUAQ3XhTtpM>> (Time stamp: 02:53-06:11) (Video removed from YouTube)

⁹³ Robyn Dixon, Ryan Ho Kilpatrick, "I thought I was about to die": Eye-witnesses describe brutal beatings by Hong Kong police", *Los Angeles Times*, (2nd September 2019) <<https://lat.ms/3bLkgke>>

⁹⁴ <<https://www.youtube.com/watch?v=JUAQ3XhTtpM>> (Time stamp: 03:18) (Video removed from YouTube)

Excessive use of force on persons who showed no signs of resistance:



First-hand witness, who was returning home from the protests, was in a train car that pulled into Prince Edward mass transit railway stop in Kowloon. He saw at least 20 police officers on the station platform when suddenly five or six ran into his carriage. He stated that he saw police using their baton to keep hitting the same person on the head, even though he was kneeling down in the corner.

Several victims exhibited no signs of resistance, as captured on film of the assault.⁸⁹ Despite this, the police officers continued to use their batons (raising from above their head and hitting downwards), aiming at their upper bodies. A man showed signs of surrender by raising both his hands up, yet the officers continued to repeatedly beat his upper body, including above his neck. The police officers also deployed pepper spray straight on a gathering of non-resistant individuals. The group of people were seen to have raised both of their hands, indicating their submission. This act by the officer is confirmed by witness Ng Chi Fai, who stated that "[t]he way they used the baton was always hitting downward, and you can kill someone

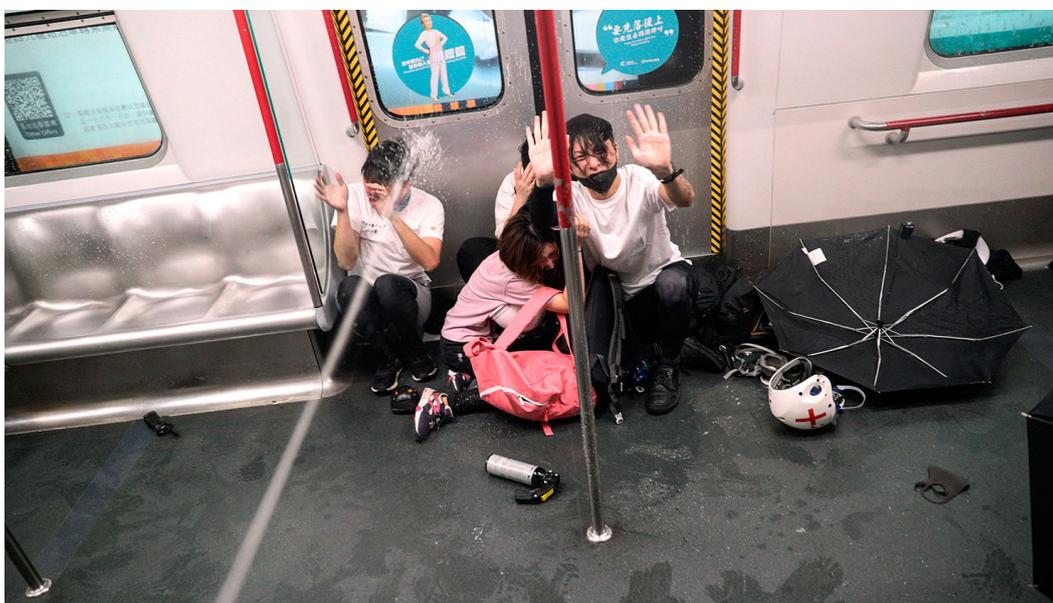
doing that. It made me really upset, but I had no idea what to do. I was terrified. The police were different that night, and in the train I felt terrified. I thought I was about to die".⁹⁰ He further said that the riot police worked in teams: one beat the target on the head; a second pushed the person over; several more would jump in to beat and kick the target.

Journalists' video footage from the scene also raises questions about police conduct.⁹¹ It was visible that police officers were kneeling on a protestor's neck while detaining and forcing the arrested person to face the ground. According to Ah Wah's eyewitness report, severe injuries were inflicted.

He stated a lot of people were injured and bleeding, including himself.⁹² The police officers utilised maximum force without restraint. He was very frightened and still remembered the screaming of the people and the ground was full of blood. Witness "Ah Him" was a first aid volunteer, and his testimony is consistent with that of "Ah Wah". He said the victims' heads bled heavily and were in bad shape. He couldn't stop their bleeding after 10 minutes of first assistance.

Indiscriminate use of force:

First-hand witness account from Ng Chi Fai stated that when the officer came down the steps onto the platform, they started hitting people.⁹³ They did not look to see if they were a protestor or not. He also saw police attacking a young man in a blue shirt and jeans, which is not a typical outfit of a protestor. He saw police beating people who were trying to flee, which included vulnerable such as elderly and children. Witness "Peter" was a person who was attacked by the police at the station. He was just sitting in the train, he did not dress like a protestor, as he did not wear black clothes or a mask, and did not possess any protective gear that protestors would usually carry. However, the police hit him on his head a few times with batons.⁹⁴



A family was attacked with pepper spray by Hong Kong Police Officers. The family pleaded with the officers to stop and appeared terrified.



Numbers of police officers armed with batons and prepared to charge.



First aiders gathered outside of the Prince Edward MTR Station. Photo by Apple Daily

4.6 Event 5: The Siege of the Hong Kong Polytechnic University

4.6.A. Event 5: Background of the Incident

⁹⁵ Dainius Puras, Leigh Toomey, Clement Nyaletsossi Voule and Joseph Cannataci, "Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy", (19th February 2020) <<https://bit.ly/3CSHfPZf>>

⁹⁶ See a photo carried by Hong Kong Free Press: <https://bit.ly/3o1zRC8>

⁹⁷ US Department of the Treasury Sanctions Individuals for Undermining Hong Kong's Autonomy", (7th August 2020) <<https://home.treasury.gov/news/press-releases/sm1088>>

Since the proposal of the Extradition Bill and the subsequent pro-democracy protests in June 2019, Hong Kong has witnessed rapidly-escalating police brutality and widespread arrests of protesters, journalists, politicians, and human rights observers — all ordinary citizens exercising their fundamental human rights. First-aid workers volunteering life and limb to provide essential medical support to Hong Kong people have not been exempt from this crackdown. Four independent experts at the UN Working Group on Arbitrary Detention to the Chinese and Hong Kong authorities have sent a letter to the Hong Kong government to demand answers over the alleged harassment, intimidation and arrest of frontline medics during Hong Kong pro-democracy protests.⁹⁵

Over 12 days of the Hong Kong Polytechnic University ("**PolyU**") siege, the HKPF fired 1458 tear gas canisters and arrested many leaving the university or the vicinity thereof in an event widely referred to as "The Siege of the PolyU". An image of first-aid medics being detained, with their hands tied behind their backs and forced to kneel on the floor, rapidly circulated across social media platforms, arousing outrage from the international medical and humanitarian community.⁹⁶ Despite the HKPF's promise to not arrest medical workers, in reality many were arrested upon their departure from the premise of PolyU and subsequently charged. Charges generally relate to domestic offences, including "rioting" (maximum 10 years imprisonment) and "unlawful assembly" (maximum 5 years imprisonment). In addition to being arrested, the first-aid workers were

often harassed by the HKPF officers.

On 7th August 2020, the US Department of the Treasury imposed sanctions on 11 individuals pursuant to Executive Order (E.O.) 13936. It also "*builds on and implements provisions of the Hong Kong Human Rights and Democracy Act of 2019 and the Hong Kong Autonomy Act of 2020*".⁹⁷ Chris Tang Ping-keung, then Commissioner of HKPF was amongst the sanctioned. The treasury stated, inter alia, "*[t]he HKPF besieged Hong Kong Polytechnic under his leadership, along with arresting hundreds of protesters*".

Thousands of tear gas canisters and rubber bullets were fired at trapped students, first-aiders, and unrelated members of the public; water cannons, sonic weapons, and armoured trucks were deployed against citizens and there was a persistent threat of using live rounds. Trapped Hongkongers desperate to escape the blockage turned to dangerous and life-threatening methods and potential routes as attempts to leave by safe routes were met with projectiles from the HKPF and indiscriminate arrests.

Pattern of behaviour:

The proponent has compiled some of the instances of abuses on first aid volunteers and medical workers in protests by the HKPF, which are attached as Annex A. As demonstrated through these individual cases, the pattern shows that first-aid workers who provide medical aid to protesters in Hong Kong are arrested by the HKPF, where they are also harassed while in detention.

4.6.B Event 5: Summary of evidence relating to arbitrary detention

During the Siege, the HKPF have consistently failed to make a distinction between those they considered of reasonable suspicion — that the arrested person is guilty of the offence to be charged (only lawful basis for arrest in Hong Kong) — and those of a threat to public order. This has led to arbitrary detention of first-aid volunteers who solely provided or aimed to solely provide medical service to the injured during the Siege.

Similar claims have been verified by the United Kingdom All-Party Parliamentary Group’s (“**APPG**”) Inquiry into violations of human rights and humanitarian principles by the HKPF on 4th August 2020. The report concluded⁹⁸, *inter alia*, that:

“There is no evidence to suggest that the humanitarian aid workers were involved in the hostilities thereby justifying the HKPF stripping them of the protections otherwise available to humanitarian aid workers”

⁹⁸ All-Party Parliamentary Group on Hong Kong, “The Shrinking Safe Space for Humanitarian Aid Workers in Hong Kong - Inquiry Into Violations of Humanitarian Aid Workers in Hong Kong”, (August 2020) <<https://bit.ly/3wuqL11>>

⁹⁹ Dainius Puras, Leigh Toomey, Clement Nyaletsossi Voule and Joseph Cannataci, “Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy”, (19th February 2020) <<https://bit.ly/3CShPZf>>

4.6.C Event 5: Summary of evidence relating to the Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment

During the Siege, the police have consistently used excessive force against protesters. Thousands of tear gas canisters and rubber bullets were fired at protesters, first-aiders and unrelated members of the public; water cannons, sonic weapons, and armoured trucks were deployed against citizens and there was a persistent threat of using live rounds. Details of the allegations are attached to **Annex E**.



51 medics and journalists were arrested outside of the Hong Kong Polytechnic University. Photo from Telegram, reposted by Hong Kong Free Press

4.7 Event 6: Protests in relation to National Security Law

4.7.A. Event 6: Background of the Incident

¹⁰⁰ Dainius Puras, Leigh Toomey, Clement Nyaletsossi Voule and Joseph Cannataci, "Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy", (19th February 2020) <<https://bit.ly/3CShPzf>>

¹⁰¹ Amnesty International, "Hong Kong: Mass arrest of opposition figures highlights repressive power of national security law", (6th January 2021) <<https://bit.ly/3BX11Bw>>

On 30th June 2020, the National Security Law was promulgated in Hong Kong, having been passed by decree by the Chinese government, and thus circumventing any political input from Hong Kong residents. The NSL seeks to criminalise any act of secession, subversion, terrorism, and collusion with foreign or external forces. It effectively curtails protests against the government and freedom of speech. More crucially, it carries serious sentences where all crimes are punishable by a maximum sentence of life in prison. Seven UN experts have expressed their concern about the NSL's conformity with China's obligation in the Universal Declaration of Human Rights ("UDHR") and International Covenant on Civil and Political Rights ("ICCPR").¹⁰⁰

The United States government, in responding to the passage of the National Security Law in Hong Kong, imposed sanctions on 11 individuals, pursuant to "The President's Executive Order on Hong Kong Normalisation" (Executive Order 13936). They were sanctioned for undermining Hong Kong's autonomy and restricting the freedom of expression or assembly of the citizens of Hong Kong. The sanctioned persons were Carrie Lam Cheng Yuet-ngor, Chris Tang Ping-keung,

Stephen Lo Wai-chung, John Lee Ka-chiu, Teresa Cheng Yeuk-wah, Erick Tsang Kwok-wai, Xia Baolong, Zhang Xiaoming, Luo Huining, Zheng Yanxiong, and Eric Chan Kwok-ki.

Despite the risk posed by the NSL, on 1st July 2020, protesters took to the streets to register their opposition to the law. During these protests, at least 370 people, including minors, were arrested for suspected unlawful assembly, disorder in public places, furious driving and possession of offensive weapon. Of the 370, 10 were arrested for suspected violation of the National Security Law. Like prior arrests, these arrests were again conducted in a disproportionately aggressive manner, and those arrested were subsequently subjected to cruel and degrading treatment.

On 6th January 2021, more than 50 of Hong Kong's most prominent pro-democracy activists and politicians were arrested pursuant to the NSL. This was one of the largest crackdowns on the pro-democracy camp to date. It was the "starkest demonstration yet of how the national security law has been weaponised to punish anyone who dares to challenge the establishment", according to Amnesty International.¹⁰¹



Despite the National Security Law, protesters marched down the street while hoisting the "Liberate Hong Kong: Revolution of our Times" flag. Photo by Studio Incendo

4.7.B Event 6: Summary of evidence relating to arbitrary arrest; lack of due process; lack of fair trial; and arbitrary verdict and sentencing of Tong Ying-kit

On 1st July 2020, in a protest against the passage of the National Security Law, more than 370 protesters were arrested in Hong Kong. 10 of the arrests were for offences related to the new security law, including holding signs or flags advocating for Hong Kong independence, amongst those was a 15-year-old girl who was waving a Hong Kong independence flag.

One protester, Tong Ying-kit rammed and injured some officers as he drove a motorcycle, carrying the slogan “Liberate Hong Kong, revolution of our times” into police at the protest. On the next day, the Hong Kong government issued a statement claiming that the slogan “connotes ‘Hong Kong independence’, or separating the HKSAR from the People's Republic of China, altering the legal status of the HKSAR, or subverting the State power.”

Tong was subsequently charged with “inciting secession” and “acts of terrorism” under the National Security Law. Whilst awaiting trial, he was detained with his bail application

rejected, since 6th July. Despite the case being transferred to the High Court, there would not be a jury for the trial.

Tong was found guilty in July 2021, and sentenced to nine years in jail for the two charges. In its judgement, the court has not taken into consideration the right to free speech, but instead, relied on old common law verdicts to justify its decision, many of which predate the human rights revolution in criminal law jurisprudence.¹⁰² Regarding the banner of “Liberate Hong Kong, revolution of our times”, despite it being subject to various interpretations, the court held that it only has to be capable of inciting others to commit secession, but not the “one meaning only”.¹⁰³ By holding that the banner was capable of inciting others to commit secession, the court heavily relied on the prosecution witness’s interpretation of the banner.¹⁰⁴ The verdict was described by human rights groups and law scholars as “narrow and cramped”¹⁰⁵ and “a hammer blow to free speech”.¹⁰⁶

¹⁰² Eric Y. H. Lai and Thomas E. Kellogg, “Judgement in Tong Ying Kit’s case sets dangerous precedent, ignores human rights law”, Hong Kong Free Press, (31st July 2021) <<https://bit.ly/3o6gRSZ>>

¹⁰³ HKSAR v. Tong Ying Kit, HCCC 280/2020, Reasons for verdict, para.137, (2021) <<https://bit.ly/3mV9L4I>>

¹⁰⁴ *Ibid.*, para. 138

¹⁰⁵ Eric Y. H. Lai and Thomas E. Kellogg, “Judgement in Tong Ying Kit’s case sets dangerous precedent, ignores human rights law”, Hong Kong Free Press, (31st July 2021) <<https://bit.ly/3o6gRSZ>>

¹⁰⁶ Amnesty International, “Hong Kong: Sentencing of Tong Ying-kit deals a hammer blow to free speech”, (30th July 2021) <<https://bit.ly/3H-3kfX9>>



An unarmed young woman was arrested by three police officers. Photo by Studio Incendo



Democratic Party lawmaker Andrew Wan is arrested in Causeway Bay on July 1, 2020. Photo by Studio Incendo

107 “National security law: Hong Kong rounds up 53 pro-democracy activists”, BBC News, (6th January 2021) <<https://www.bbc.com/news/world-asia-china-5555299>>

108 Jessie Pang, “Court case of 47 Hong Kong democracy activists to resume on Sept 23”, Reuters, (8th July 2021) <<https://reut.rs/3qjjeUY>>

109 Selina Cheng, “Bail hearing for 47 Hong Kong democrats facing security law charges drags on, with four hospitalised due to exhaustion”, Hong Kong Free Press, (2nd March 2021) <<https://bit.ly/3BXs2Cm>>

110 Jerome A. Cohen, “Hong Kong Makes a Farce of Procedural Fairness”, Jerry’s Blog, (4th March 2021) <<https://bit.ly/3khMzM2>>

111 Jerome A. Cohen, “Bail Decisions Must Give Reasons”, Jerry’s Blog, (15th March 2021) <<https://bit.ly/3wzEdUU>>

112 Jerome A. Cohen, “Bail for Some, Denial for Most”, Jerry’s Blog, (6th March 2021) <<https://bit.ly/3B-W4eyG>>

1 United Nations Human Rights Committee, “General comment No. 37 (2020) on the right of peaceful assembly (article 21)”, (27 September 2020) <<https://bit.ly/3mNAC2b>>

2 *Benitez Gamarra v. Paraguay*, Communication no. 1829/2008 (30th May 2012).

3 *Bouyid v Belgium*, Application no. 23380/09 (ECtHR, 28th September 2015).

4 *Abdullah Yasa and Others v Turkey*,



Collage of arrested activists and politicians on 6th January 2021 . Image by Stand News

Mass arbitrary arrest; lack of due process of pro-democracy activists and politicians:

On 6th January 2021, about 1,000 police were deployed to take part in morning raids on 72 premises across Hong Kong to arrest 53 of Hong Kong’s most prominent pro-democracy activists and politicians were arrested pursuant to the NSL. The arrested persons span across the political spectrum of Hong Kong, from long-established opposition figures to young pro-democracy campaigners and even academics. The arrests were made on the grounds that the arrest persons helped run an unofficial primary election to pick opposition candidates ahead of the postponed 2020 LegCo elections — an alleged attempt to “overthrow” the government.¹⁰⁷

Subsequently, marathon bail hearings were conducted in March. It lasted four days and dragged late into the night, causing several defendants to fall ill and seek hospital treatment.¹⁰⁸ On the first day, it was dragged on for close to 14 hours, leaving four defendants hospitalised due to exhaustion. The initial hearing continued until almost 3am and resumed late on Tuesday morning, giving the defendants little time to sleep.¹⁰⁹ Scholars, most famously New York University law professor Jerome Cohen, questioned why the workload of dealing with 47 bail applications was allocated to only one judge, but not divided between a few judges.¹¹⁰

The prosecution was also abusing the judicial process — on one hand claiming urgency and the need to keep the defendants locked up immediately; on the other, telling the court that a three-month delay in further proceedings was needed to allow time to complete the investigation.

Many of the subsequent appeals for bail have been denied. Even those who were granted bail are “banned from making any speech or committing any act that may be seen as breaching the security legislation”. Again, the NSL itself is vague and expansive, this bail condition only further erodes the right to free speech of the Hong Kong people. As Cohen rightly pointed out, all those who have been granted bail have been silenced and neutered for this entire period even though they may be acquitted, so are those who have had their bail application rejected.¹¹¹ Cohen argued that it was a tactic by the Hong Kong government to punish democratic politicians for exercising their political rights in the interim of the entire judicial process.¹¹²

5. The Analysis: Application of Facts to Law

5.1 Event 1: Anti-Extradition Bill Protest

5.1.A. Event 1: Human Right Abuses

Peaceful protests are not to be equated with “lawful” protests. The fact that some of the protests during the Anti-Extradition Bill Protests were not in conformity with the requirements imposed by the HKPF does not exclude those protests from the scope of the right of freedom of assembly.¹

Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment:

UNHRC considers all ill-treatment that causes physical or mental pain and suffering to a victim is covered within the meaning of Cruel, Inhuman & Degrading Treatments and Punishment (“CIDTP”). In *Gamarra v. Paraguay*, UNHRC recognises that inherent in the concept of CIDTP is an unnecessary or disproportionate use of force by the police. In *Benitez Gamarra v. Paraguay*², the UNHRC found the disproportionate use of force by the police against peaceful protesters (including forcing them to lie on the ground, beating them with batons, kicking and stamping on them, setting fire to their belongings, etc.) amounted to a violation of Article 7 of the ICCPR.

The Istanbul Protocol and other UN bodies consider the following acts amount to CIDTP:

- (i) punching, kicking, slapping, beating with objects, etc;
- (ii) prolonged constraint of movement, forced positioning etc;
- (iii) choking;

- (iv) humiliation, including through verbal abuse and performance of humiliating acts;
- (v) treatment that exploits pre-existing injuries; and
- (vi) treatment that causes permanent physical damage.

For the European Court of Human Rights (“ECtHR”), treatment that is premeditated and causes either actual bodily injury or intense physical or mental suffering amounts to ‘inhuman treatment’. Treatment will be classified as ‘degrading’ where its object is to humiliate and debase the victim. In *Bouyid v. Belgium*³, the ECtHR considers that any resort to physical force by law-enforcement officers, which has not been made strictly necessary by the victim’s own conduct, diminishes human dignity and is a violation of Article 3 which include :

- (i) causing severe bodily injuries or intense physical or mental suffering without sufficient justification;
- (ii) treatment that humiliates or debase an individual, diminishing their human dignity;
- (iii) unwarranted use of pepper spray and tear gas against demonstrators;
- (iv) slapping individuals;
- (v) hitting demonstrators who are trying to run away from the scene, or have fallen to the ground or are trying to hide from the police (*Najafli v. Azerbaijan*); and
- (vi) grabbing demonstrators or pulling their hair and dragging them along the ground in order to arrest them (*Annekov v. Russia*).

Application no. 44827/08 (ECtHR, 16th July 2013).

⁵ *Najafli v Azerbaijan*, Application no. 2594/07 (ECtHR, 2nd January 2013).

⁶ *ZH v. The Commissioner of Police for the Metropolis* [2012] EWHC 604 (QB).

⁷ Amnesty International, “Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed”, 19th September 2019, <<https://bit.ly/3FZaBUx>>, (accessed 5th January 2022).

⁸ *Salman v. Turkey* [2000], ECHR 21986/93

⁹ United Nations Body of Principles for the Protection of All Persons under Any Form of Detention.

¹⁰ Rhoda Kwan, "Disproportionate use of crowd-control gear by Hong Kong police akin to torture – Amnesty report", Hong Kong Free Press, (11th December 2019) <<https://bit.ly/3BFffnS>> (accessed 7th March 2021).

¹¹ Kris Cheng, "Hong Kong's Carrie Lam defends police, criticises protests, dodges question over 'autonomy' of decision-making", Hong Kong Free Press, (13th August 2019) <<https://bit.ly/3GOjtgJ>> (accessed 7th March 2021).

¹² Kris Cheng, "Hong Kong police strongly oppose independent investigation into conduct, says Chief Exec. Carrie Lam in leaked recording", Hong Kong Free Press, (29th August 2019) <<https://bit.ly/3mKpeEj>> (accessed 7th March 2021).

In *Abdullah Yasa*⁴, the police had used tear gas grenades against demonstrators which caused injury to the victim on the nose causing facial oedema, a fractured nose bone and concave incisions, the ECtHR found that the minimum level severity threshold of CIDTP under *Bouyid* had been obviously crossed. The ECtHR has also found that the limitations applicable on the use of lethal weapons apply to the use of tear-gas grenades and that "unregulated and arbitrary action by State agents" is "incompatible with the effective respect for human rights" under Article 3 of the European Convention on Human Rights ("ECHR"). The ECtHR found that "*firing a tear gas grenade along a direct, flat trajectory by means of a launcher [as opposed to a high-angle shot] cannot be regarded as an appropriate police action as it could potentially cause serious, or indeed fatal injuries...*"

In *Najafli v. Azerbaijan*⁵, a journalist who posed no threat to the police and had used no violence against the police, had suffered serious injuries in an unauthorised assembly because of the police. It was held that the use of force by the police was excessive, unnecessary and unacceptable.

The interpretation of Article 3 of the ECHR by UK courts closely aligns with its interpretation by the ECtHR. The English High Court held that excessive use of force by the police amounts to a violation of Article 3.⁶

During the Anti-Extradition Bill Protests, there were countless incidents that showed the HKPF has used unnecessary or disproportionate force falling within the definition of cruel, inhuman and degrading treatments under *Gamarra v. Paraguay* and *Benitez Gamarra v. Paraguay* (Section 4.2 (b)(i)) during the arrests (Section 4.2 (b)(i) (aa), during Crowd Dispersal (Section 4.2(b) (i)(bb) and during the detention (Section 4.2(b)(i)(cc)). The disproportionate force was further illustrated by the abuse of the lethal weapons against protesters and passers-by (Section 4.2(i)(bb)(A) to (G)). The incidents of protesters being punched, kicked, slapped, beaten with baton (Section 4.2(b)(i)(cc)(A) and (B)), prolonged constraint of movement, forced positioning (Section 4.2(b)(ii)(aa)), choking, humiliation (Section 4.2(b)(ii)(bb)) etc captured under the camera of citizens and reported by the media could be easily found

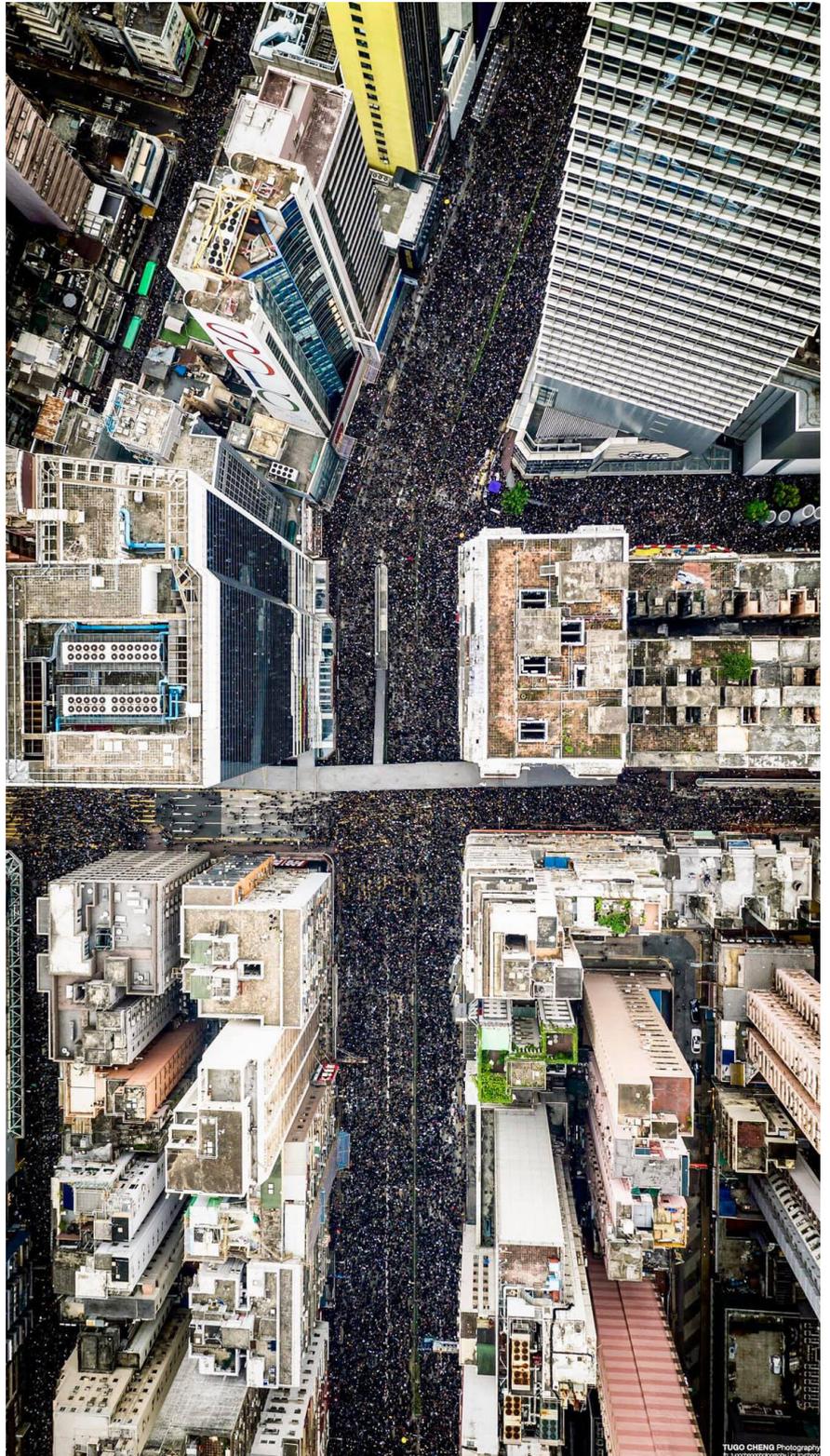
online. These acts would all be considered as CIDTP under the Istanbul Protocol and by the UN bodies. For ECtHR, apart from treating the aforementioned acts as CIDTP, it also considers unwarranted use of pepper spray and tear gas against demonstrators (Section 4.2(b)(i)(bb)(B)) and hitting demonstrators who are trying to run away from the scene, or have fallen to the ground or are trying to hide from the police, pulling hair and dragging the protesters along the ground in order to arrest them (Sections 4.2(b)(i)(aa), (bb)(G) and (cc)(A)) as CIDTP under *Najafli v. Azerbaijan* and *Annekov v. Russia*. Furthermore, the abuse of the use of tear gas grenades, rubber bullets, bean bag rounds, and other projectiles have caused countless injuries not only to protesters but also to journalists (Sections 4.2(b)(i)(bb)(B) & (C).

In particular, while assessing evidence from the inhuman detention conditions in San Uk Ling Holding Centre⁷, the standard of proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons under their control in custody, strong presumptions of fact will arise in respect of injuries occurring during such detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation.⁸ Further, CIDTP is to be interpreted as expansively as possible to offer the broadest protection of a detained or imprisoned person in conditions which deprive him.⁹ Considering the standard of proof and expansive interpretation of CIDTP in cases involving detained persons, we contend that the above-mentioned ill-treatment could amount to inhuman and degrading treatment. International jurisprudence supports this position, for example: *Güveç v. Turkey* [2009] ECHR 70337/01 (failure to provide adequate medical care); and *Eremia v. the Republic of Moldova* [2013] ECHR 3564/11 (fear of further assaults can be sufficient severe as to causing suffering an anxiety amounting to inhuman treatment). Further, it is well established that rape and other forms of sexual violence can amount to torture and ill-treatment (for example, see: *Ortega et al. vs. Mexico* (2010) Inter-American Court of Human Rights).

In the European Commission for Democracy

through Law (Venice Commission) Guidelines on Freedom of Peaceful Assembly, it is required that a prompt investigation should be undertaken to consider the necessity and proportionality of the force used. However, as of the date of this submission, no independent investigation on the misconducts of any police officers during the Anti-Extradition Bill Protests has ever been conducted.

Amnesty International and Omega Research Foundation concluded that the crowd-control equipment deployed by the HKPF against civilians during 2019's Anti-Extradition Bill Protests were akin to torture.¹⁰ We entirely agree on this conclusion and submit that the excessive force used by the HKPF during the Anti-Extradition Bill Protests constituted torture, cruel, inhuman or degrading treatment and punishment under Regulation 4(b).



Anti-extradition bill protest on 12th June 2019. Allegedly have 2 millions people on the street. Drone camera captured by Tugo Cheung.

¹³ *Najafli v. Azerbaijan*, Application no. 2594/07 (ECtHR, 29th February 2008).

¹⁴ Philip Sherwell, "Activists single out British officers in protests against Hong Kong police", *The Times*, (23th June 2019) <<https://bit.ly/3mSObgV>> (accessed 6th November 2021).

¹⁵ 鄭嘉如 and 陳潤南, 「【逃犯條例】6.12外籍指揮官陶輝 下屬撥開咪牌 三拒01記者提問」, *HK01*, (22th June 2019) <<https://bit.ly/3k965dd>> (accessed 6th November 2021).

5.1.B. Event 1: Involved Persons

It is submitted that there are more than reasonable grounds of suspicion that the individuals listed below are in the positions to act, to command, to execute or to make the decisions during the Anti-Extradition Bill Protests. Therefore, they are jointly and severably responsible for all serious violations of the right not to be subjected to inhumane and degrading treatment and torture during the Anti-Extradition Bill Protests.

(1) Carrie LAM Cheng Yuet-ngor

Lam was the Chief Executive of the HKSAR at the material time. Lam has repeatedly emphasised her support for the HKPF and claimed that their use of excessive force on the protesters is justified.¹¹ Despite reports of police use of excessive force widely and internationally, Lam has supported the measures taken by the HKPF and promised the force that she would not establish an Independent Commission of inquiry to investigate their misconduct since 9th June 2019.¹² As of the date of this submission, there has not been any independent investigation into alleged police misconduct by an independent body. Lam was designated as a leader or official of a government entity whose members have engaged in activities to prohibit, limit, or penalise the exercise of freedom of expression or assembly in Hong Kong.

(2) John LEE Ka-chiu

Lee was the Secretary for Security of the HKSAR at the material time. Lee was also the responsible minister for the Extradition Bill. He was promoted as Chief Secretary for Administration in June 2021, and later as

Chief Executive in 2022. Lee is designated as a leader or official of a government entity whose members have engaged in activities to prohibit, limit, or penalise the exercise of freedom of expression or assembly in Hong Kong.

(3) Teresa CHENG Yeuk-wah

Cheng was the Secretary for Justice of the HKSAR at the material time. As head of the Hong Kong Department of Justice, Cheng was the responsible minister for the Extradition Bill. Cheng is designated as a leader or official of a government entity whose members have engaged in activities to prohibit, limit, or penalise the exercise of freedom of expression or assembly in Hong Kong.

(4) Chris TANG Ping-keung

Tang was the Deputy Commissioner of Police (Operations) and subsequently the Commissioner of Police at the material time. The HKPF besieged Hong Kong Polytechnic University under his leadership. He was promoted as Secretary for Security in June 2021, and continue to serve in this role in John Lee's administration. Tang is designated as a leader or official of a government entity whose members have engaged in activities to prohibit, limit, or penalise the exercise of freedom of expression or assembly in Hong Kong.

(5) Stephen LO Wai-chung

Lo was the Commissioner of Police at the material time, until his retirement in November 2019. Under his leadership, over 4,000 protesters were arrested and 1,600 injured in clashes. Lo is designated as a leader or official of a government entity whose members have engaged in activities to prohibit, limit, or penalise the exercise of freedom of expression or assembly in Hong Kong.

5.2 Event 2: Kettling Peaceful Protesters Near the Legislative Council on 12th June 2019

5.2.A. Event 2: Human Right Abuses

UK Courts in R (*Moos*) conduct a proportionality assessment on a case-by-case basis to determine whether dispersal was justified. Both UNHRC and the ECtHR in *Ibrahimov v. Azerbaijan* agree that mere disruptions or failure to abide by applicable formalities do not justify dispersal. Mandatory notifications and authorisation requirements, police tactics like “kettling” may also have a chilling effect. By doing so, it is our submission that unjustified dispersal without notification and kettling amount to a serious violation of the right not to be subject to torture, CIDPT under the Regulation.

On 12th June 2019, protesters surrounded the government complex to pressure the government to withdraw the Extradition Bill.

5.2.B. Event 2: Involved Persons

It was held in *Najafli v. Azerbaijan*¹³ that law enforcement personnel should also be held liable for any excessive or disproportionate use of force. We, therefore, submit that the following police officers should be sanctioned for the same reason.

(1) Rupert Timothy Alan DOVER

Dover was a Chief Superintendent and the Deputy Regional Commander of New Territories South of the HKPF at the material time. Dover was amongst the leading officers responsible for police operation on the protest on 12th June 2019. He was the commander-in-charge of the clearance operations at the location. In February 2020, upon promotion to Assistant Commissioner of Police, he took over as Regional Commander, Kowloon West.

(2) David John JORDAN

Jordan was a Chief Superintendent and the Commandant of the Police Tactical Unit at the material time.¹⁴ Jordan was amongst the leading officers responsible for police operation on the protest on 12th June 2019. He was one of the commanding officers at

This was due to the government’s reluctance to act after the demonstration on 9th June where one million people turned out. Despite the protest on 12th June being overwhelmingly peaceful, the police used tear gas, pepper spray, rubber bullets, and bean bag rounds indiscriminately and were in contravention of international standards. The kettling tactics adopted by the HKPF has caused many to be injured and an individual was shot in the head by a rubber bullet that was metres away, while showing no sign of aggression to the officers.

Therefore, it is our submission that the HKPF has committed serious violations of the right not to be subject to torture, CIDPT under Regulation 4(2)(a)(b) for adopting the kettling tactics against peaceful protesters near the Legislative Council on 12th June 2019.

the protest site. He assumed command of the Marine Region in 2020 upon promotion to the rank of Assistant Commissioner of Police.

(3) Justin SHAVE

Shave was a Superintendent of Marine Police and one of the commanders of the police unit around CITIC Tower and the Legislative Council at the material time. Shave was the officer who ordered to fire at then-legislator Wu Chi-wai.¹⁵ In May 2020, Shave was promoted as a Senior Superintendent.

Dover, Jordan, and Shave should be sanctioned to reaffirm Britain’s commitment to human rights in Hong Kong. Sanctioning them sends a clear message to the entire HKPF, that they will be held accountable for their decisions and actions, especially as Shave, Dover, and Jordan are high-ranking officers of the HKPF. Furthermore, as the named persons are British citizens, it is important for the UK government to reaffirm that British citizens who are responsible to torture and other inhumane activities overseas will be held accountable at home.

¹⁶ Plattform ‘Ärzte für das Leben’ v Austria, Application no. 10126/82 (ECtHR, 21 June 1988).

¹⁷ *Chernega and Others v Ukraine*, Application no. 74768/10 (ECtHR, 18 June 2019).

5.3 Event 3: Mob Attack in Yuen Long MTR Station

5.3.A. Event 3: Human Right Abuses

The prolonged and indiscriminate beatings by the mob of unarmed civilians during the attack has constituted torture.

In Platform ‘*Ärtze für das Lebn’ v Austria*¹⁶, the ECtHR held that member states are under an obligation to ensure peaceful conduct and citizen safety, and to facilitate assembly without fear of physical violence from counter-demonstrators.

In *Chernega and Others v. Ukraine*¹⁷, member states are obliged to ensure that individuals are effectively protected “from the criminal acts of a third party, as well as [take] reasonable steps to prevent ill-treatment of which the authorities knew or ought to have known”.

In *Hajrizi Dzemajl et al. v. Yugoslavia*, the Committee against Torture in Yugoslavia provided an authority on what constitutes acquiescence. It found that the failure of the police authorities to take appropriate steps to protect the applicant amounted

to acquiescence to violent acts. Similarly, although police in Yuen Long were informed of the immediate risks facing the victims and were even present at the scene, they made no attempt — not even a verbal warning — to stop the attack. The unreasonable period of non-intervention and the fact that no immediate arrests were made represent de facto acquiescence to the unlawful acts of the white-shirt mob. Such failure and de facto acquiescence constituted torture or cruel, inhuman or degrading treatment or punishment.

Further, the United Nations Human Rights Committee, in its General Comment No. 20 on article 7 of the ICCPR prohibiting torture and cruel, inhumane and degrading treatment stated that,

“It is the duty of the State party to afford everyone protection through legislation and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.”



The government officials failed to provide a satisfactory explanation for the absence of police force at Yuen Long Station on 21st July 2019. Screenshot from AppleDaily

5.3.B. Event 3: Involved Persons

(1) LEE Wai-man

Lee was the Yuen Long District Commander and Chief Superintendent at the material time. He should be held responsible for the misconduct of police officers and the inaction of the whole Yuen Long police district to the mob attack on 21st July 2019. He retired from the HKPF in February 2020, and joined the Canfield Management Consulting Services Limited in November 2020.¹⁸

(2) YAU Nai-keung

On 21st July 2019, video footage revealed an encounter between Yau, an Assistant District Commander (Crime) at the material time, and mob members in a village in Yuen Long. Speaking to the press on 22nd July 2019, Yau stated that no one was arrested, as he claimed that the police could not be sure about the identities of perpetrators and they saw no one possessing any offensive weapons.¹⁹ Further, the police did not conduct any stop-searches on the mob, as Yau claimed that the police were unable to do so. As of the date of this report, Yau is a Superintendent of the Crime New Territories North Headquarters.



(3) LI Hon-man

As the Division Commander in charge of Pat Heung, an area located south of Yuen Long District, Li was complicit in the selective enforcement by the police on 21st July 2019. When the press challenged why the police arrived 39 minutes late, Li replied by “you are not going to intimate me”. He claimed that he did not know if they were late since he could not see his watch due to the chaotic situation, thus he did not know how long they took to arrive at the scene after receiving the reports.²⁰ On the same night, Li met with some members of the mob, and told them “don’t worry”.²¹ No arrests were made. Li was promoted from a Chief Inspector to a Superintendent in May 2021.²²

¹⁸ 陳淑霞, 「721時任元朗指揮官李偉文退休9個月『轉跑道』 加盟顧問公司」, HK01, (2nd November 2020) <<https://bit.ly/2ZW8Mru>>

¹⁹ 「鏗鏘集：721元朗黑夜」, RTHK, (29th July 2019) <<https://podcast.rthk.hk/podcast/item.php?pid=244&eid=141443&lang=zh-CN>> (Time stamp: 19:18-19:27)

²⁰ 「鏗鏘集：721元朗黑夜」, RTHK, (29th July 2019) <<https://podcast.rthk.hk/podcast/item.php?pid=244&eid=141443&lang=zh-CN>> (Time stamp: 17:25-17:37)

²¹ 「【警察指揮官與施襲者交談曝光】」, RFA Cantonese, (22nd July 2019) <<https://www.facebook.com/cantonese.rfa/videos/2118945871562246/>>

²² 陶嘉心, 「警隊擢升39人任警司 八鄉分區指揮官李漢民更上一層樓」, HK01, (2nd June 2021) <<https://bit.ly/3bSuRd2>>

5.4 Event 4: Indiscriminate Assault of Citizens in Prince Edward Station

5.4.A. Event 4: Human Right Abuses

²³ *Izci v. Turkey*, Application no. 42606/05 (ECtHR, 23rd July 2013).

²⁴ *Cestaro v. Italy*, Application no. 6884/11 (ECtHR, 7 April 2015).

²⁵ 「據了解監警會報告指831太子站封站合理 未觸及市民被警員打傷」, Now TV, (13th May 2020) <<https://bit.ly/3woWWCr>>

²⁶ *Ibid.*

²⁷ 勞敏儀, 「【8.31遊行】李家超: 社會仍有默許暴力 看前因後果判斷警方執法」, (2nd September 2019) <<https://bit.ly/3o57UZZ>>

In *Izci v Turkey*²³, the ECtHR found that it is not considered proportionate use of force under Article 3 of the ECHR if the police behaviour involves “*hitting the demonstrators who were trying to run away from the scene, had fallen to the ground and were hiding from the police officers, as well as these officers indiscriminately spraying the demonstrators with tear gas to the extent that not only the demonstrators but also unconnected persons in the vicinity were affected*”.

In *Cestaro v Italy*²⁴, the ECtHR found that the law enforcement officers “systematically beat up all those present throughout the building”, a school lawfully occupied by the demonstrators during the G8 Summit. The police inflicted upon the applicant injuries with severe physical consequences, kicking him repeatedly and striking him with tonfa-type truncheons whilst the applicant posed no danger or displayed any violence towards the police. The ECtHR found that in

these circumstances, the ill-treatment was intentional and premeditated and qualified as torture under Article 3 of the ECtHR.

The excessive duration and use of force on persons who already showed signs of surrender constitutes torture or cruel, inhuman or degrading treatment or punishment. The use of aggressive policing tactics in the train compartment, a confined space, is unnecessary and disproportionate. The indiscriminate use of force on anyone who is on board the train also constitutes cruel, inhuman or degrading treatment or punishment.

5.4.B. Event 4: Involved Persons

(1) Rupert Timothy Alan DOVER

Dover was a Chief Superintendent and the Deputy Regional Commander of New Territories South of the HKPF at the material time. Dover was reportedly one of the commanders that were responsible for the police operation.²⁵

(2) Justin SHAVE

Shave was a Superintendent of Marine Police at the material time. Shave was reportedly amongst the commanders that were responsible for the police operation.²⁶

(3) Chris TANG Ping-keung

Tang was the Deputy Commissioner of Police (Operations) at the material time.

(4) John LEE Ka-chiu

Lee was the Secretary for Security of the HKSAR at the material time. Journalists within the station were driven away from the stations. Lee defended the police’s questionable handling by claiming that it was to ensure that the evidence investigation was not disrupted.²⁷

5.5 Event 5: The Siege of the Hong Kong Polytechnic University

5.5.A. Event 5: Human Right Abuses

Right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment:

Article 10 of the ICCPR states that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”. It is incorporated into Hong Kong domestic legislation through Article 6 of the Hong Kong Bill of Rights Ordinance (“**BORO**”).

The HKPF’s act of tying up clearly-marked humanitarian workers and forcing them to kneel on the ground for prolonged periods of time is arguably a form of inhumane and degrading treatment. It should further be noted that instances of verbal abuse and humiliation towards humanitarian aid providers were frequently reported; such actions could be characterised as degrading.²⁸

Article 7 of the ICCPR states that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. It is incorporated into Hong Kong domestic legislation through Article 3 of BORO.

In its General Comment No. 20 (1992), the Human Rights Committee states that: “It is

the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.”²⁹ Acts falling under Article 7 ICCPR, by the Human Rights Committee also include “corporal punishment, and acts that cause physical pain as well as mental suffering to the victim” (Article 5, General Comment No. 20).

Principle 7(1) of the “Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment” (Resolution 43/173) indicates: “States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints.”³⁰

Protesters who were arrested whilst attempting to leave the campus were subjected to excessive force by the officers, including being pinned to the ground aggressively, and being restrained by putting force on their necks and head. These excessive force has caused physical pain and mental suffering to the victims, and also amount to corporal punishment.

²⁸ See *Pretty v. The United Kingdom*, ECtHR, Application no. 2346/02: “Where treatment humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance, it may be characterised as degrading...”

²⁹ Office of the High Commissioner for Human Rights, “CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)”, (10th March 1992) <<https://www.refworld.org/docid/453883fb0.html>>.

³⁰ UN General Assembly, “Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Resolution 43/173)”, (9th December 1988) <<https://bit.ly/2YliX8u>>.

³¹ 魯嘉裕, 「【理大圍城】圍堵出動千八警力 卓孝業：犯法無後果是法治災難」, HK01, (18th December 2019) <<https://bit.ly/3mRKpUl>>

³² 鄭秋玲, 「港版國安法 | 警隊國安處理班 消息：O記李桂華調任加入主力查案」, HK01, (4th July 2020) <<https://bit.ly/3bTJcGb>>

5.5.B. Event 5: Involved Persons

(1) Chris TANG Ping-keung

Tang was the Commissioner of HKPF at the material time. He was sanctioned by the US government, with the treasury noting, inter alia, “[t]he HKPF besieged Hong Kong Polytechnic under his leadership, along with arresting hundreds of protesters”.

(2) Michael CHEUK Hau-yip

Cheuk was the West Kowloon Commander at the material time. Cheuk was the commanding officer for the PolyU siege operation.³¹ Cheuk

retired in February 2020, and soon returned in July as a consultant of the HKPF Security Wing.³²

(3) Carrie LAM Cheng Yuet-ngor

Lam was the Chief Executive of the HKSAR at the material time. Lam did not prevent the HKPF from laying siege to the PolyU. She was in a position to call off the siege but failed to do so despite having received multiple calls for action from the international community.

³³ Human Rights Council, "Resolution 7/36. Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression" (28 March 2008). Available at: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_36.pdf.

5.6 Event 6: Protests in relation to National Security Law

5.6.A. Event 6: Human Right Abuses

The ECtHR has taken a strong stance against the criminalisation and conviction for expressions of general or political interest. The ECtHR recognised in *Ricci v. Italy* that handing down disproportionate prison sentences have a significant chilling effect on the right to freedom of expression. The ECtHR in *Eon v. France* considers that the criminalisation of expression in public interest and the imposition of criminal penalties, such as fines or imprisonment, are likely to have a chilling effect on freedom of expression. UK Courts in *R (Miller)* shared the same view of the

chilling effect of criminalisation on the right to freedom of expression. In *Lehideux and Isorni v. France*, if the criminal penalty imposed is disproportionate to the aim cited by the state or unnecessary to achieve that aim, it will not be considered legitimate under Article 10 of the ECtHR. In the context of international human rights principle, the United Nations Human Rights Council in its resolution 7/36 (UN Doc. A/HRC/RES/7/36)³³ stressed the need to ensure that invocation of national security is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression.



5.6.B. Event 6: Involved Persons

(1) Carrie LAM Cheng Yuet-ngor

Lam was the Chief Executive of the HKSAR at the material time. She chaired the newly established Committee for Safeguarding National Security. She is designated for being responsible or involved in developing, adopting, or implementing the National Security Law.

(2) John LEE Ka-chiu

Lee was the Secretary for Security of the HKSAR at the material time. He was promoted as Chief Secretary for Administration in June 2021, and Chief Executive in July 2022. Lee sits on the Committee for Safeguarding National Security and he now chairs this committee. He is designated for being involved in coercing, arresting, detaining, or imprisoning individuals under the authority of the National Security Law, as well as being involved in its development, adoption, or implementation.

(3) Teresa CHENG Yeuk-wah

Cheng was the Secretary for Justice of the HKSAR at the material time. She sat on the Committee for Safeguarding National Security. She is designated for being responsible or involved in developing, adopting, or implementing the National Security Law.

(4) Chris TANG Ping-keung

Tang was the Commissioner of Police at the material time. He was promoted as Secretary for Security in June 2021 and continues his post in John Lee's administration. He sits on the Committee for Safeguarding National Security. He is designated for coercing, arresting, detaining, or imprisoning individuals under the authority of the National Security Law.

(5) Eric CHAN Kwok-ki

Chan was the director of the Chief Executive Office at the material time. He was appointed as be the Secretary General of the Committee for Safeguarding National Security. As such, Chan is designated for being responsible for or involved in developing, adopting, or implementing the National Security Law.

(6) Erick TSANG Kwok-wai

Tsang was the Secretary for Constitutional and Mainland Affairs of the HKSAR at the material time and he continues his position in John Lee's administration. In his post, Tsang maintains relations between the HKSAR government and mainland Chinese government. He is designated for being responsible for or involved in developing, adopting, or implementing the National Security Law.

(7) Edwina LAU Chi-wai

Lau was the Deputy Commissioner of Police (National Security) at the material time and she continues to serve in this position. She is the head of the HKPF's National Security Department. She sits on the Committee for Safeguarding National Security. She is designated for coercing, arresting, detaining, or imprisoning individuals under the authority of the National Security Law.

(8) Steve LI Kwai-wah

Li was a Senior Superintendent of HKPF's National Security Department at the material time. He was the public face for most of the high-profile arrests over national security made by the police. He is designated for coercing, arresting, detaining, or imprisoning individuals under the authority of the National Security Law.

6. Appropriateness and Impact

¹ The same issue has been raised by the Committee against Torture of the United Nations in its Concluding Observations at its 1392 and 1393 meetings, see CAT/C/CHN-HKG/CO/5, para 9, being one of the pending follow-up issues up to this date.

² Alvin Lum, "Hong Kong police watchdog does not have powers and resources to cope with scale of protests, say Independent Police Complaints Council's expert advisers", South China Morning Post, (10th November 2019) <<https://bit.ly/3G-Pfd00>> (accessed 1st July 2021).

³ United Nations Human Rights Committee, "Concluding observations on the third periodic report of Hong Kong, China, adopted by the Committee at its 107th session (11 – 28 March 2013)", para. 12, (April 29th, 2013) <<https://bit.ly/3k762ii>> (accessed 1st July 2021).

²³⁸ UN Committee Against Torture (CAT), Concluding observations of the Committee against Torture : Hong Kong Special Administrative Region (19 January 2009, CAT/C/HKG/CO/4) para 12, available at: <https://www.refworld.org/docid/4986bc0b0.html> (accessed 20 November 2021)

6.1 Designation of the named individuals satisfies SAMLA's purpose

It is our submission that it is in the interest of the UK government to ensure that torture, other human rights abuses, and encroachment upon the Sino-British Joint Declaration ("JD") or the Basic Law will not go unnoticed or unpunished. The Chinese government, HKSAR government and the Hong Kong Police Force's serious violations of human rights during the Anti-Extradition Bill Protests and the National Security Law related violations of human rights are well-known and well-documented.

Provide accountability for or be a deterrent to gross violations of human rights:

The designation of one or more high ranking individuals within the above-mentioned entities would demonstrate the commitment and leadership of the United Kingdom to hold human rights violators accountable and ensure that criminal prosecution against individuals are aligned with international standards of fair prosecution.

The designation aligns with the purposes set out in the Regulation 4 of the Global Human Rights Sanctions Regulations, that is, to "deter, and provide accountability for, activities", including "serious violation by that State of an individual's — right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment".

The problem of lack of accountability channels is particularly acute in Hong Kong. The Complaints Against Police Office ("CAPO") and the Independent Police Complaints Council ("IPCC") form a two-tiered police complaints system. In brief, CAPO is the receiving and investigative body of complaints, while the IPCC reviews investigation reports of CAPO. If it agrees with the report, IPCC may offer recommendations to the Commissioner of Police or the Chief Executive of Hong Kong. We would specifically highlight that the CAPO is the only body with investigative power under the existing system. In the premises, Hong Kong has no independent mechanism to investigate police misconduct¹, as the IPCC's expert advisers themselves re-confirmed.² The IPCC does not have the required investigatory powers such as subpoenaing documents and summoning witnesses. Concerns have been raised by the United Nations Human Rights Committee over the IPCC's lack of independence from the Hong Kong government.³ The lack of independence of the CAPO was also noted in the Concluding Observations of the Committee against Torture on Hong Kong (2009). In the said Concluding Observations, the UN Committee Against Torture ("CAT") recommended the establishment of a "fully independent mechanism mandated to receive and investigate complaints on police

misconduct”.⁴ The same concern was also raised in the Concluding Observations on the 3rd Periodic Report of Hong Kong (2013) published by the UN Human Rights Committee where investigations were described as “carried out by the police themselves through the Complaints Against Police Office (CAPO).”⁵ The concern over the lack of independence of the CAPO and recommendation to set up an entirely independent investigation mechanism were recalled in the Concluding Observations on the 5th Periodic Report of China with respect to Hong Kong (2016) published by the CAT.⁶ In any event, even if the IPCC were independent, it would be difficult to report an individual officer’s misconduct. That is due to the fact that identification of individual police officers has been almost impossible, as they often cover their faces and eyes, and not display any identification on their uniform whilst on duty.⁷

We share the concerns raised in the UN Human Rights Committee’s Concluding Observations on HK (2013)⁸ and the UN Committee Against Torture’s Concluding Observations on HK (2016)⁹ that “investigations of police misconduct are still carried out by the police themselves through the Complaints Against Police Office (CAPO) and that IPCC has only advisory and oversight functions to monitor and review the activities of the CAPO and that the members of IPCC are appointed by the Chief Executive” and that the IPCC has no power to conduct investigation on its own. Most concerning is that, as of today, the Hong Kong government still refuses to establish any independent inquiry into alleged police misconduct since 2019.

As such, sanctions are an appropriate tool against the human rights abuses in Hong Kong due to the ineffectiveness of the Hong Kong judicial and political system in providing Hongkongers with the necessary redress for the violations outlined within these submissions.

Promote compliance with international human rights law:

Violation of human rights is a threat to British interest in Hong Kong but an even greater threat when openly tolerated by our allies. Notwithstanding Hong Kong and Chinese governments’ repeated claim that they have great respect for human rights, as enshrined in the Sino-British Joint Declaration, the International Covenant on Civil and Political Rights, and the Basic Law of Hong Kong, **the HKSAR and Chinese governments, and the HKPF have evidently engaged in systematic and widespread human rights abuses, which are undoubtedly the type of activity that the UK Parliament intended to target in enacting the Regulations.**

The UK’s international partner, the United States, has imposed human rights-related sanctions in accordance with the *Hong Kong Human Rights and Democracy Act of 2019* and the *Hong Kong Autonomy Act of 2020* respectively. Certain individuals within the designation for the purpose of this submission are amongst those who were sanctioned by the United States. Designations of officials from or in relation to the above-mentioned entities would send a bold message that the UK does not employ the Regulations as a method of impugning our adversaries, but will hold countries to account when it comes to serious human rights abuses.

Promote respect for human rights:

By penalising violators of human rights, it promotes and demonstrates the UK’s respect for human rights. It illustrates to the perpetrators and the world at-large that there are very real consequences for committing human rights violations. The events described are highly relevant to the UK’s human rights policy priorities, as described below in Section 7.

⁵ UN Human Rights Committee (HRC), Concluding observations on the 3rd periodic report of Hong Kong, China, adopted by the Committee at its 107th session, 11-28 March 2013 : Human Rights Committee (29 April 2013, CCPR/C/CHN-HKG/CO/3) para 12, available at: <https://www.refworld.org/docid/539031324.html> (accessed 20 November 2021)

⁶ UN Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China with respect to Hong Kong, China (3 February 2016, CAT/C/CHN-HKG/CO/5) para 9, available at: <https://www.refworld.org/docid/58bed9954.html> (accessed 20 November 2021)

⁷ Explaining the issue to lawmakers at the Legislative Council in June 2019, Secretary for Security John Lee claimed that uniforms had “no room” for identification numbers. See: <https://www.hongkongfp.com/2019/06/21/hong-kong-activists-complain-police-failed-display-id-numbers-security-chief-says-uniform-no-room/>

⁸ Ibid.

⁹ Ibid.

Promote compliance with international humanitarian law:

As mentioned below, there were instances where the HKPF violated international humanitarian law. By holding those relevant persons accountable, it promotes compliance with international humanitarian law.

Promote respect for democracy, the rule of law, and good governance:

Sanctions can be a key tool of the UK when responding to a breach of the Joint Declaration, and can impact the policy-making decisions of Hong Kong and China with regards to the JD. Robust sanctions would give human rights violators and those seeking to further erode Hong Kong's autonomy pause before implementing their policies, and also remind the world that the UK is actively seized of the matter. In the midst of the Covid-19 pandemic and other international crises such as the war in Ukraine, the Chinese and Hong Kong governments may be relying on a perceived lack of international attention when pursuing their goals. Sanctions, particularly multilateral ones akin to the Xinjiang-related sanctions passed in 2021, demonstrate an international commitment to defend human rights. Furthermore, sanctions can also

provide the UK with leverage when seeking China's compliance with its obligations under the JD. Considering the limited toolset to tackle the Hong Kong issue, imposing sanctions must be an option on the table. When imposed upon the right entities and individuals, sanctions are a low-risk way to send a targeted message to foreign governments, as seen in the limited Chinese response to the Xinjiang sanctions.

Therefore, it is our submission that sanctioning relevant involved persons for violations of Regulation 4(2)(b) fulfils the purposes under Section 1(2) of the Sanctions and Anti-Money Laundering Act 2018. It is in the interests of international peace and security to uphold the JD and hold the Hong Kong and Chinese officials who have been continuously violating the JD accountable for any gross violations of the human rights and freedom guaranteed under the JD and the ICCPR during the Anti-Extradition Bill Protests and the implementation of the National Security Law. By doing so, it can send a strong message to the international community and the Hong Kong and Chinese officials that the UK is committed to uphold the JD and other international human rights law to promote respect for human rights, democracy, the rule of law, and to protect Hong Kong's autonomy and freedom.

7. Policy Considerations

The events detailed in this submission are fully in line with the FCDO policy paper: *Global Human Rights Sanctions: consideration of designations*, published 6th July 2020, and are therefore in full alignment with UK government policy relating to the use of sanctions to further the cause of human rights throughout the globe.¹ This submission fulfils the following policy criteria.

UK government human rights priorities:

According to the FCDO's Human Rights and Democracy Report 2020, China is a priority country for the improvement of human rights.² The report notes with concern the actions of the authorities in relation to Hong Kong, including the imposition of the National Security Law and its associated abuses.³ The report concludes that "the UK will continue to lead international efforts to hold China to account on priority issues, including Hong Kong..."⁴ Taking action to address the human rights abuses in Hong Kong as illustrated here supports existing UK policy and priorities.

In relation to the FCDO's human rights priority themes⁵, the events described clearly represent an attack on media freedom, with many journalists suffering intimidation rising

to physical attacks by authorities. The use of rape and sexual violence as a method of torture by authorities should be seen as a clear matter of concern for the UK's priorities of ending violence against women and girls and prevention of the use of torture. Finally, many of the actions of the authorities have undermined the protection of human rights defenders and freedom of expression, threatening those who seek to assert their democratic and human rights with violence and intimidation. Therefore, the events described fall within the UK's stated human rights priority themes.

The nature of the victim:

All individuals in the designation, have in different and several instances, carried out activities in relation to victims who seek to obtain, exercise, defend or promote human rights, such as journalists, civil society activists, human rights defenders, and whistleblowers. Attacks on journalists and civil society activists are well documented, and clearly represent a targeted attack on the free exercise of human rights.

¹ UK Foreign, Commonwealth, & Development Office, 'Global Human Rights Sanctions: consideration of designations', 6 July 2020, <https://www.gov.uk/government/publications/global-human-rights-sanctions-factors-in-designating-people-involved-in-human-rights-violations/global-human-rights-sanctions-consideration-of-targets#contents>.

² UK Foreign, Commonwealth, & Development Office, 'Human Rights and Democracy Report 2020', (6 July 2021), p.39, available at <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020>.

³ UK Foreign, Commonwealth, & Development Office, 'Human Rights and Democracy Report 2020', (6 July 2021), p.40, available at <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020>.

⁴ UK Foreign, Commonwealth, & Development Office, 'Human Rights and Democracy Report 2020', (6 July 2021), p.40, available at <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020>.

⁵ UK Foreign, Commonwealth, & Development Office, 'Human Rights and Democracy Report 2020', (6 July 2021), available at <https://www.gov.uk/government/publications/human-rights-and-democracy-report-2020>.

The seriousness of the conduct:

Both the scale and impact of the described conduct has been significant. Attacks on civilians have been widespread and well documented. Thousands of people have been targeted with state authorised violence and intimidation. Many have been injured, with some being permanently disabled. The scale of the violence, coercion, and intimidation has been severe. There is a clear pattern of violent repressive behaviour on the part of the authorities. The events described form a systematic attempt to intimidate and persecute peaceful opponents of the imposition of autocratic measures and are likely to be followed by continued repression.

International profile and collective action:

The UK's ally, the United States, has imposed human rights-related sanctions in accordance with the *Hong Kong Human Rights and Democracy Act of 2019* and the *Hong Kong Autonomy Act of 2020* respectively. Certain individuals within the designation for the purpose of this submission are amongst those who were sanctioned by the United States. Designations of officials from or in relation to the above-mentioned entities would send a bold message that the UK does not employ the Regulations as a method of impugning our adversaries, but will hold countries to account when it comes to serious human rights abuses.

The status and connections of the involved person:

The named individuals within this submission are all high-ranking officials within the Hong Kong ruling executive or within the security forces. They comprise the senior officials most directly responsible for the serious violations of human rights as described here, and therefore must be held accountable. Several named individuals have direct connections to the UK and its allies, with family members holding British citizenship and have assets in the UK.

The effectiveness of other measures, including law enforcement:**The potential for the perpetrators named in this submission to be held accountable under either Hong Kong or Chinese jurisdictions is non-existent.**

The authorities are fundamentally unwilling to pursue accountability through existing legal channels as the actions described conform to government aims. The only avenue for accountability is through the foreign policy action of outside states which object to this systematic violation of human rights.

8. Conclusion

It is of vital importance for the UK's national interests to sanction the proposed persons involved in this submission and hold the Chinese and Hong Kong governments accountable for the gross violations of human rights during the Anti-Extradition Bill Protests and the implementation of the National Security Law. The UK as the signatory of the JD not only has the moral and legal obligations to uphold the JD but also is expected by Hongkongers and the international community to respond to the continuous breaches of the JD with concrete actions to deter further breaches.

With more and more countries enacting their own Magnitsky-style legislations, it is time for the UK to step up and lead, so that other countries will follow suit. In addition, a majority of the proposed involved persons to be sanctioned in this submission have already been sanctioned by the United States. We urge the UK to show solidarity with its allies to uphold values of freedom and human rights. Moreover, among all of the proposed involved persons, at least three of them possess British nationality, which qualifies the UK to be the most legitimate and appropriate country to impose sanctions on them.

To conclude, it is our submission that the UK stands on solid legal ground to impose sanctions on those involved in the gross violations of human rights during the Anti-Extradition Bill Protests and the implementation of the National Security Law. As displayed clearly by the acts and attitude of the PRC and HKSAR government, they have no remorse or intention to cease the continued breaches of the JD or hold those involved accountable for gross violations of human rights. The UK must act and send a strong signal to condemn such acts and impose sanctions on the involved persons to promote compliance with international human rights law, international humanitarian law, and respect for human rights, democracy and the rule of law.



Recommendations submitted by



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