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SOCIAL AND CULTURAL RIGHTS

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

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## I. Introduction: Severe rights deterioration in domestic rights environment

Note: All emphases in quoted passages have been added.

1. Human Rights in China (HRIC) makes this submission to the Committee on Economic, Social and Cultural Rights (CESCR) in advance of the adoption of the List of Issues Prior to Review (LOIPR) for China,<sup>1</sup> including the Hong Kong SAR.<sup>2</sup> Framed within an overview of the current domestic rights environment, HRIC's submission describes overarching challenges to the right to education and academic freedom and highlights specific concerns regarding the effective implementation of the Covenant (ICESCR, art. 13)<sup>3</sup> and academic freedom (Committee's *General Comment No. 13: The Right to Education*)<sup>4</sup>. HRIC also provides suggestions for the Committee's consideration in its adoption of the List of Issues Prior to Review (LOIPR) for Central People's Government (CPG) and HKSAR government.
2. In its Concluding Observations on the second periodic report of China of June 13, 2014, the Committee recommended that the HKSAR government: ensure all children have free access to education<sup>5</sup>; eliminate *de facto* discrimination against children of migrants and ethnic minorities and non-Chinese speaking students;<sup>6</sup> as well as incorporate ICESCR provisions in domestic legislation.<sup>7</sup> In its fourth periodic report of December 19, 2019, the HKSAR government asserts that its existing legislation and policies are sufficient to implement its obligations under the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR).<sup>8</sup>
3. However, since the submission of the 2019 state party reports, key developments give rise to expanded and new challenges to the effective implementation of the ICESCR, in particular: the ongoing COVID-19 pandemic and the imposition by the CPG of the sweeping *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law or NSL)*.<sup>9</sup> The Committee has specifically addressed the wide-ranging effects of COVID-19 on the enjoyment of a broad range of economic, social, and cultural rights.<sup>10</sup> Since July 2020, and often invoking the necessity of COVID-19 health measures to restrict public assemblies, the CPG and HKSAR governments have severely restricted the peaceful exercise of fundamental rights and freedoms and undermined institutional safeguards, including an independent judiciary and media.<sup>11</sup>
4. The *National Security Law* and its implementation drew and continue to generate wide international concern, including statements issued by the UN High Commissioner for Human Rights<sup>12</sup> and UN special procedures<sup>13</sup> regarding impact on Hong Kong's autonomy, rule of law, and the protection of fundamental rights and freedoms.<sup>14</sup> The NSL prohibits acts of secession, subversion, terrorism, and collusion with foreign forces and creates a set of new implementing entities, all effectively under the control of the CPG. Despite the risks of criminal and political prosecution, civil society voices have also raised concerns about the increasing encroachment on their peaceful exercise of rights and Hong Kong's core values.<sup>15</sup>
5. However, the *National Security Law* may also provide an opening to promote progress. In its Concluding Observations on the second periodic report of China of June 13, 2014, the Committee recommended that "Hong Kong, China, take all appropriate measures to incorporate the provisions of the Covenant in domestic legislation and . . . guarantee their direct applicability by the domestic courts."<sup>16</sup> Despite the HKSAR government's response in its fourth periodic report, the *National Security Law* has arguably incorporated the provisions of the Covenant into domestic legislation applicable to Hong Kong. Both the *International Covenant on Civil and Political Rights* (ICCPR) and ICESCR are specifically incorporated in the *National Security Law*.<sup>17</sup> Article 4 states:

In safeguarding national security, the Hong Kong Special Administrative Region shall respect and guarantee human rights, the rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the residents of the Region enjoy under the Basic Law of the Hong Kong Special Administrative Region and the provisions of the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* as applied to Hong Kong, shall be protected in accordance with the law.<sup>18</sup>

6. The *National Security Law* was unanimously passed by the Standing Committee of the National People's Congress (NPCSC) on June 30, 2020, and added to Annex III of the *Basic Law*, Hong Kong's Constitution, which contains a list of national laws relating to defense and foreign affairs *that are applicable to Hong Kong*.<sup>19</sup>

## II. Concerns regarding implementation of the right to education and undermining of academic freedom

7. The Preamble to the Covenant underscores that *human rights and freedoms rights derive from the inherent dignity of the human person* and that, in accordance with the *Universal Declaration of Human Rights*, “the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his *economic, social and cultural rights, as well as his civil and political rights*.” Article 13(1) provides that States Parties agree that “education shall be directed to the *full development of the human personality* and the sense of its dignity, and *shall strengthen the respect for human rights and fundamental freedoms*. They further agree that education shall *enable all persons to participate effectively* in a free society . . . .”
8. With the aim of inculcating correct thinking and ideological loyalty to the Communist Party of China (CPC),<sup>20</sup> the spread of the ideologically-driven model of education in mainland China to Hong Kong<sup>21</sup> presents a fundamental challenge to the values set forth in the Preamble and the rights protected in the Covenant. The rights-related impacts of the imposition of this model reaches the whole education ecosystem with far reaching implications for society and future generations. Ongoing trends and developments include: curriculum reforms, including renewed efforts to introduce patriotic education<sup>22</sup>; reform of Liberal Studies (LS), a core subject for the upper secondary school (forms 4-6); the copyright of an increasingly wide range of topics, content, and books; and the firing, dismissals, or failure to renew contracts for teachers.

### ***Revamping of a high school core subject—Liberal Studies—to remove any “sensitive” contents***

9. In fall 2020, the Hong Kong government announced the revamping of Liberal Studies (LS), a core subject for the upper secondary school (forms 4-6) first introduced in 2009—to broaden students’ knowledge base and produce independent, critical thinkers.<sup>23</sup> The aim of Liberal Studies was stated clearly by Hong Kong’s educational authorities, including the Education Bureau:

It aims to broaden the students’ knowledge base and enhance their social awareness. It adopts an issue-enquiry approach, which helps liberate the minds of students by having them study a wide range of issues and *encouraging them to find out information themselves and develop their own opinions*. It *helps students understand complex issues in contemporary society*, in the nation and in the world. *Students are encouraged to draw knowledge from different disciplines in the analysis of the issues*, and to *develop their own views*, construct personal knowledge, and *become critical thinkers*.<sup>24</sup>

10. As the anti-extradition protests progressed in 2019, Liberal Studies came under increasing criticism chiefly by pro-Beijing politicians, and a sharp public debate ensued, with Hong Kong SAR Chief Executive Carrie Lam blaming the subject for fueling student activism.<sup>25</sup> In September 2019, the Secretary for Education, Kevin Yeung, initiated what it called “professional consultancy service” and invited LS publishers to submit their LS textbooks for review and vetting. Six major publishers of LS textbooks entered the voluntary process. The revisions, reported in the press in August 2020, included the deletion from at least two textbooks of the phrases “separation of power,”<sup>26</sup> contents on human rights, policing abuses, rule of law, press freedom, and civil disobedience,<sup>27</sup> the names of political groups advocating self-determination and/or independence,<sup>28</sup> a description of Chinese troops clearing Tiananmen Square of protesters in the June Fourth crackdown on the 1989 Democracy Movement, as well as an illustration of the famous scene of the “Tank Man” standing before a column of tanks during the crackdown.<sup>29</sup>

11. While progressive education groups group called the amendments “political censorship,” the Education Bureau defended it as a move to “help students develop values.” In September 2020, a government task force issued its report on a three-year review of school curriculum. Among its recommendations was that *current issues* not be included in Liberal Studies lessons given the complexity of controversial issues and maturity of secondary students. The report stated:

*Newly emerging current issues that are still developing are not suitable for enquiry because when events are still developing, it is difficult for teachers and students to conclude without the benefit of hindsight or verify the objectivity and reliability of the data and information gathered, and to engage in impartial and evidence-based discussions. More often than not, it is hard to make rational judgements on very controversial issues without a solid understanding of the problems from multiple perspectives and an appreciation of the complexities of different considerations behind, all of which go beyond the maturity of secondary students as minors.*<sup>30</sup>

12. In her policy address on November 25, 2020, Chief Executive Carrie Lam continued her attack, blaming Liberal Studies as a vehicle for “the *infiltration of politics into school campuses*,” causing students to be “drawn into political turbulence.”<sup>31</sup> The following day, on November 26, Education Secretary Kevin Yeung announced sweeping changes in the Liberal Studies curriculum<sup>32</sup> that would essentially de-emphasize critical thinking and weaken the incentive to learn. The changes include: reducing materials on current affairs; renaming the subject; changing the 1-5 grading system to pass/fail; requiring all textbooks to be vetted by the government; requiring students to make mandatory visits to mainland China; and increasing contents about mainland China.

13. Lam offered her rationale for reducing current affairs contents:

*But critical thinking has now become a kind of debating exercise about current affairs, for which the students are easily influenced by some specific social opinion . . . . Critical thinking under the curriculum has deviated into objecting against everything about the Basic Law and the government. I don’t think this is critical thinking. For achieving critical thinking, students should discern the facts first, such as, Hong Kong is an inseparable part of China.”*<sup>33</sup>

14. Yeung, echoed Lam and laid down a clear red line:

*We don’t think [teachers] should talk about something which has just happened, simply showing students newspaper clippings and having them discuss the issue. In terms of information gathering and to know the whole truth about the event and its development, it is difficult for pupils to come up with a [holistic] analysis”; and “under the ‘one country, two systems’ framework, it is impossible for us to allow discussions in classrooms on Hong Kong independence.”*<sup>34</sup>

15. The reform and remarks drew fire from progressive forces in education. On December 9, 2020, the Professional Teachers' Union released a survey that showed more than 90 percent of the 500 Hong Kong teachers polled believe that Liberal Studies "reform" was politically motivated.<sup>35</sup>
16. The reform of Liberal Studies to reduce its current affairs contents, along with the comments by the Chief Executive and the Education Secretary about the inappropriateness of those contents, run counter to the subject's aim of encouraging independent, critical thinking among students. Censorship of information and debate undermines the core principle of the right to education, as enshrined in Article 13 of the ICESCR: that education be directed to the *full development of the human personality* and strengthen *respect for fundamental rights and freedoms* and enable all *persons to participate effectively* in a free society. Enforced ideological control will dangerously weaken the capacity of young people and future generations to develop the critical capacities, skills, and diverse perspectives necessary for informed and responsible participation in society,

### ***Censorship and disciplining of educators***

17. The Committee has elaborated that education "is both a human right in itself and an indispensable means of realizing other human rights"; and that "*the right to education can only be enjoyed if accompanied by the academic freedom of staff and students.*"<sup>36</sup> Yet this right has been undermined by the authorities' prohibition of diverse forms of peaceful expression, including group protest actions, within and outside the schools.<sup>37</sup>
18. On July 8, just days following the implementation of the NSL, Education Secretary Kevin Yeung stated that students "should not participate in class boycotts, or take part in activities such as chanting slogans, forming human chains, and posting slogans or singing songs which contain political messages at schools for expressing political stance" and that "schools are obliged to stop" these acts. Yeung further stressed, "[u]nder no circumstances should students or other persons be incited to indicate their stance on controversial and evolving political issues" and that "[o]ne of the goals of education, he asserted, is "cultivating their positive values."<sup>38</sup>
19. The firing of a university professor for his political activism. On July 28, 2020, Benny Tai Yiu Ting, associate professor of law at the University of Hong Kong (HKU) was fired by the university's governing council.<sup>39</sup> Tai was one of the key planners of 2014 Occupy Central Movement (later more generally known as the Umbrella Movement), a pro-democracy civil disobedience protest that lasted for 79 days. Tai was convicted of two public nuisance offences in August 2020 in connection with his role in the Occupy Movement but was granted bail pending appeal. The HKU governing council's decision went against the ruling by the university senate<sup>40</sup> that Tai's actions amounted to "misconduct" but did not constitute grounds for dismissal.<sup>41</sup> Tai believes the move was directed by the authorities other than those at the university.<sup>42</sup>
20. The contract termination of a university lecturer because of his political activism. On July 27, 2020, a day before the firing of Benny Tai, Shiu Ka-chun, a lecturer of social work at the Baptist University of Hong Kong, was told that his contract would not be renewed at expiration at the end of August. The university provided no reason for the termination.<sup>43</sup> Shiu is a former lawmaker who served nearly six months in prison for two public nuisance charges in connection with the 2014 Umbrella Movement. He was suspended from teaching in January 2020 but was allowed to continue working in the social work department.<sup>44</sup>
21. The deregistration of a primary school teacher for including freedom of speech and Hong Kong independence and in class work.<sup>45</sup> On October 5, 2020, the Education Bureau (EDB) permanently revoked the license of a teacher at the Alliance Primary School, a private school, for "spreading the

idea of Hong Kong independence” in violation of the *Basic Law*.<sup>46</sup> In a life education class—a subject that included topics on current affairs, including Islamic State in the Middle East<sup>47</sup>—that took place in March 2019, the teacher had shown a documentary featuring pro-independence activist Andy Chan Ho-tin and had students filled out an in-class worksheet containing questions such as “What is freedom of speech?” and “What is the reason for advocating Hong Kong independence?”<sup>48</sup> The deregistration decision went against an internal investigation at the school ordered by the EDB that had concluded that no staff were promoting the idea of Hong Kong independence. The principal, vice-principal, and three other teachers at the school were reprimanded and warned over lax supervision and using materials. (The deregistration met with strong disagreement among educators.<sup>49</sup>)

22. The disciplining of these educators because of their political activism or exercise of a fundamental right—the rights to freedom of thought and speech raise concerns regarding the inappropriate infringement on these rights as well as the adverse impact on the quality of education provided to students. The Committee has clearly stated that

*Members of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights applicable to other individuals in the same jurisdiction. . . .*<sup>50</sup>

### ***Self-censorship and chilling of academic freedom***

23. Numerous news reports since the implementation of the *National Security Law* have portrayed fear and anxiety among Hong Kong’s academic community about what can be discussed and taught. They also reveal widespread and deepening self-censorship throughout the community—among school authorities, teachers, and students alike. Specific examples from diverse disciplines including law, medicine, political philosophy, and the humanities include:

- Responding to the *National Security Law*’s overbroad provisions on terrorism related offences, a leading legal scholar and dean of the law faculty of the University of Hong Kong, warned of self-censorship among professors, researchers, and students. (NSL, art. 27 states “A person who advocates terrorism or incites the commission of a terrorist activity shall be guilty of an offence.”) He asked: “To what extent can one talk about the morality of violence and terrorism in an academic sense?”<sup>51</sup>
- As part of a lesson plan for a class about doctors’ responsibilities in society, a professor of medical humanities had included photographs depicting volunteer medics treating protestors and police but finally decided to remove them out of fear of stepping out of line.<sup>52</sup>
- A professor of political philosophy told a reporter in November 2020 that he feared that conversations in a class that he had taught in previous years that explored the feasibility of secession, drawing on Quebec or Scotland, might now be forbidden.<sup>53</sup>
- In July, the program director of the humanities and law faculty of a secondary school cautioned teachers in an email: “Remain neutral in your teaching and be mindful of the language you use . . . Any behavior in eliciting further discussion on sensitive issues MUST be avoided.”<sup>54</sup>

24. These examples underscore how self-censorship strangles free speech, impedes the exercise of academic freedom, and degrades the quality of education.

### **III. HRIC's suggestions for the Committee's consideration and adoption**

25. To effectively ensure that the implementation of the NSL does not impermissibly restrict or undermine rights protected under HKSAR, national, and international law, *international human rights standards and norms must serve as the foundation* for monitoring, assessing impact, developing effective safeguards, informing needed legislative reforms, and ensuring a safe and enabling environment for civil society. The ICESCR is now integrated into domestic law. In light of the ongoing serious restrictions on civic space and on the peaceful exercise of rights in Hong Kong, the Committee's review offers an important opportunity to press the authorities on complying with their international obligations and taking concrete actions to effectively implement the Covenant.<sup>55</sup>
26. HRIC respectfully urges the Committee to consider the following issues and questions to advance to the Hong Kong SAR government:

#### ***On integration and implementation of ICESCR***

- Please provide clarification and confirmation whether the incorporation of the ICCPR and ICESCR in Article 4 of the *National Security law*, a national law passed by the Standing Committee of the National People's Congress, means that *the ICCPR is also now incorporated in mainland law* in addition to the incorporation of ICESCR provisions in domestic law in the Hong Kong SAR.
- Please provide information on concrete measures taken or planned to guarantee the direct applicability of ICESCR provisions by the domestic courts. Please include examples of cases in which ICESCR provisions have been cited by parties and in judicial decisions.
- Please provide information regarding concrete measures and safeguards taken to guarantee that the rights enunciated in the Covenant will be exercised without discrimination of any kind, including political or other opinion, as specified in Article 2(2) of the ICESCR.
- In cases where discrimination has occurred, including retaliation, dismissal, deregistration from an employment position based upon political opinions or views, please provide information on legal, administrative, and other remedies afforded the affected person.

#### ***On the ICESCR-related impacts of implementation of the National Security Law***

- Please provide information regarding any concrete steps or plans being taken to address rights concerns and recommendations related to the implementation to-date of the *National Security Law*, including recommendations by UN experts to review and reconsider the Law.

#### ***On curriculum reforms, including the Liberal Studies subject***

- Please provide information on criteria and processes that provide guidance to schools, universities, and other education institutions to ensure that the identification, assessment, and removal/restriction of content are in compliance with the international standards and obligations of the CPG and HKSAR government. Please include specific information on the transparency and accessibility of these criteria and processes, including consultations with education experts, teachers, parents, students, and other stakeholders.



## *On academic freedom and self-censorship*

- Please provide concrete information—or specific guidelines on and decision-making process for—what constitutes “sensitive” topics that are prohibited from discussion in an academic context? What factors are considered? Who are the decisionmakers and at what level of an educational institution? Are there any provisions for time limits or reconsideration and review of topics banned as “sensitive”?
- Please provide information on specific measures or step taken or planned to ensure that the right to work for teachers, administrators, and other workers in education institutions is exercised under “conditions safeguarding fundamental political and economic freedoms to the individual,” as specified in Article 6(2) of the ICESCR.

<sup>1</sup> “Third periodic report submitted by China under articles 16 and 17 of the Covenant, due in 2019,” August 5, 2020 [Date received: December 19, 2019], <https://digitallibrary.un.org/record/3884746?ln=en>.

<sup>2</sup> “Fourth periodic report submitted by Hong Kong, China, under articles 16 and 17 of the Covenant, due in 2019,” August 5, 2020 [Date received: December 19, 2019], <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6Q5mlBEDzFEovLCuW%2bALqOml1btoJd4YxREVF2WipwJ5xuSazynvUP%2bVa66SfbNNeqzLihWIBNJJ50mCiX%2fN8HVRnXYqPgP4wkduktGrtgVJiki34wqUKqfbXq3B>.

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights, December 16, 1966, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

<sup>4</sup> “CESCR General Comment No. 13: The Right to Education (Art. 13),” December 8, 1999, <https://www.refworld.org/pdfid/4538838c22.pdf>.

<sup>5</sup> On access to free compulsory education, the HKSAR government did not address the issue directly but stated it is an “established education policy of Hong Kong to develop students’ national identity... stated as one of the curriculum goals.” “Fourth periodic report submitted by Hong Kong, China, under articles 16 and 17 of the Covenant, due in 2019,” op. cit. para. 191.

<sup>6</sup> On discrimination in education, the HKSAR government did not elaborate on the re-allocation of resources or the implementation of any legislation on bilingual education as suggested by the Committee. “Fourth periodic report submitted by Hong Kong, China, under articles 16 and 17 of the Covenant, due in 2019,” op. cit.

<sup>7</sup> On the incorporation of ICESCR provisions directly into the laws of Hong Kong, the authorities even went further to suggest that this was “neither necessary nor appropriate” and that a “sectoral approach with specific measures to deal with different fields” could be more effective in protecting these rights, though it did not elaborate on what a sectoral approach constitutes. “Fourth periodic report submitted by Hong Kong, China, under articles 16 and 17 of the Covenant, due in 2019,” op. cit. paras. 10 to 12.

<sup>8</sup> *ibid*.

<sup>9</sup> *Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region* (2020), <https://www.elegislation.gov.hk/hk/A406>.

<sup>10</sup> The Committee on Economic, Social and Cultural Rights issued a statement on 17 April 2020. “Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights (E/C.12/2020/1),” *Committee on Economic, Social and Cultural Rights*, April 17, 2020, <https://digitallibrary.un.org/record/3856957?ln=en>. COVID-19 has also presented extensive rights-related challenges, including the right to education and the impact on young peoples’ development and mental health. Mental well-being during the crisis is shown to be correlated to some extent with age, with younger groups experiencing poorer well-being outcomes. In particular, the mental well-being of young people aged 18-29 whose education or work had been disrupted the most since the onset of the pandemic was greatly reduced with many affected by probable anxiety or depression. “Youth and COVID-19: impacts on jobs, education, rights and mental well-being report,” International Labour Organization, August 11, 2020, [https://www.ilo.org/global/topics/youth-employment/publications/WCMS\\_753026/lang-en/index.htm](https://www.ilo.org/global/topics/youth-employment/publications/WCMS_753026/lang-en/index.htm).

<sup>11</sup> “Too Soon to Concede the Future: The Implementation of The National Security Law for Hong Kong--An HRIC White Paper,” Human Rights in China, October 16, 2020, <https://www.hrichina.org/en/press-work/press-release/too-soon-concede-future-implementation-national-security-law-hong-kong-hric>.

<sup>12</sup> On July 3, 2020, the spokesperson for the High Commissioner for Human Rights stated: “[w]e are alarmed that arrests are already made under the [NSL] . . . when there is not full information and understanding of the scope of the offences.” Among the concerns expressed are the vague and overly broad definition of the offenses which “may lead to discriminatory or arbitrary interpretation and enforcement”; and the “collusion” offense which “may lead to a restriction of civic space and of the possibility for civil society actors to exercise their right to participate in public

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affairs.” “Press briefing note on China / Hong Kong SAR by Spokesperson for the UN High Commissioner for Human Rights on the National Security Law, Rupert Colville,” [United Nations Human Rights Office of the High Commissioner](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E), July 3, 2020, EN: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E>, CH: <https://www.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=C>.

<sup>13</sup> Seven UN experts’ communication to China urging review and reconsideration of National Security Law to comply with international law, September 1, 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487>.

<sup>14</sup> The 1984 *Joint Sino-British Declaration* guaranteed Hong Kong’s autonomy and way of life for 50 years, post return of sovereignty of Hong Kong to the PRC in 1997. *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong*, last revised July 1, 2007, <https://www.cmab.gov.hk/en/issues/jd2.htm>.

<sup>15</sup> See e.g. interview with Amnesty researcher: “Civil society has reacted strongly against the law because the process to enact it violated the principle of the rule of law and procedural justice in Hong Kong, and the vague and broad definitions of various provisions of the law exceed the normal understanding of law in the city.” “HONG KONG: ‘The National Security Law infringes on freedom of expression and is intensifying self-censorship,’” CIVICUS, August 27, 2020, <https://www.civicus.org/index.php/media-resources/news/interviews/4588-hong-kong-the-national-security-law-infringes-on-freedom-of-expression-and-is-intensifying-self-censorship>.

<sup>16</sup> “Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China,” June 13, 2014, <https://undocs.org/E/C.12/CHN/CO/2>.

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

<sup>18</sup> The official translation has been modified by HRIC for greater accuracy. See Annex A of “Too Soon to Concede the Future: The Implementation of The National Security Law for Hong Kong--An HRIC White Paper,” op. cit.

<sup>19</sup> The Decision authorizes the NPC Standing Committee (NPCSC) to draft the legislation, to be added directly into Annex III of the Basic Law—which contains a list of national laws relating to defense and foreign affairs that are applicable to Hong Kong. In effect, the Decision prescribes a legislative process that will bypass the HKSAR’s own legislative process. 全国人民代表大会关于建立健全香港特别行政区维护国家安全的法律制度和执行机制的决定 (*Quanguo renmindai biao dahui guanyu jianli jianquan xianggang tebie xingzhengqu weihu guojia anquan de falv zhidu he zhixing jizhi de jue ding*, Decision of the National People’s Congress on establishing and completing the Hong Kong Special Administrative Region’s legal system and implementing mechanisms for protecting national security), 13th National People’s Congress of the People’s Republic of China, 3rd Session, May 28, 2020, [http://www.xinhuanet.com/politics/2020-05/28/c\\_1126046490.htm](http://www.xinhuanet.com/politics/2020-05/28/c_1126046490.htm).

<sup>20</sup> Concerns over China’s education approach was expressed more than seventeen years ago by the Special rapporteur on the Right to Education’s following her 2003 mission to mainland China. “Report submitted by the Special Rapporteur, Katarina Tomaševski, Addendum Mission to China,” Commission on Human Rights, November 21, 2003, <https://undocs.org/E/CN.4/2004/45/Add.1> Among them were that “China’s law does not yet conform to the international legal framework defining the right to education” (para. 6); “[f]reedom to impart education is not recognized, nor is teachers’ freedom of association” (Summary); and politicized history teaching “would lead to the rewriting of many history textbooks” (Mission Report, paras. 38, 39). Since 2013, ideological control in the mainland has continued to intensify and the requirement of loyalty to the Party now covers every sector of society and all individuals and groups, including judges, lawyers, teachers, the media, and private sector businesses.

<sup>21</sup> The restrictions on the right to education by the Central government are not new. In 2013, the CPC banned the teaching of seven topics in university classrooms, including universal values, press freedom, and civil rights. Raymond Li, “Seven subjects off limits for teaching, Chinese universities told,” *South China Morning Post*, May 10, 2013, <https://www.scmp.com/news/china/article/1234453/seven-subjects-limits-teaching-chinese-universities-told>. In 2017, the CPC augmented its political indoctrination efforts to include educators by setting up CPC departments to oversee the “ideological and political work” of educators. “Chinese universities tighten ideological control of teaching staff,” Nectar Gan, “Chinese universities tighten ideological control of teaching staff,” *South China Morning Post*, August 28, 2017, <https://www.scmp.com/news/china/policies-politics/article/2108597/china-universities-tighten-ideological-control-teaching>.

<sup>22</sup> As protests and demands for democratic reforms roiled Hong Kong in 2019, mainland Chinese authorities sent out a public signal about renewing “patriotic education” in Hong Kong. An article in the state-controlled *China Daily* in November 2019 stated: “[t]he wish for Western-style liberal democracy is a malignant virus . . . . The Hong Kong Special Administrative Region is vulnerable, as the escalating protests this year have shown, [and] should find a way to improve the patriotic education of its residents,” Andy Mok, “Patriotic education needs to improve in Hong Kong,” *China Daily*, November 6, 2019, [http://www.chinadaily.com.cn/global/2019-11/06/content\\_37521037.htm](http://www.chinadaily.com.cn/global/2019-11/06/content_37521037.htm). In 2012, prior to the enactment of the NSL, the Central People’s Government (CPG) of People’s Republic of China (PRC) had attempted to introduce “patriotic education” in Hong Kong that would have modified educational contents to conform to the ideologically-driven, sanitized version of contemporary Chinese history presented by the CPG. The attempt was forced back by massive popular opposition) and the *Basic Law*, Hong Kong’s constitution.

<sup>23</sup> The subject, constituting about ten percent of lesson time, covers broad topics: personal development and interpersonal relationships, Hong Kong today, modern China, globalization, public health, and energy technology and the environment.

<sup>24</sup> “Liberal Studies Curriculum and Assessment Guide (Secondary 4 - 6),” Education Bureau Curriculum Development Council and The Hong Kong Examinations and Assessment Authority, 2007, with updates in January 2014, [https://334.edb.hkedcity.net/new/doc/eng/curriculum/LS%20C&A%20Guide\\_updated\\_e.pdf](https://334.edb.hkedcity.net/new/doc/eng/curriculum/LS%20C&A%20Guide_updated_e.pdf).

- <sup>25</sup> In May 2020, Lam said that she was concerned that schoolchildren are being “poisoned” by “false and biased information,” that some subjects, including liberal studies, could be “penetrated,” and that the education sector should not become a “chicken coop without a door. Lam’s statements were made during an interview with the pro-Beijing Chinese language newspaper Ta Kung Pao on May 11, 2020. “特首專訪\粵港澳出入境 研月內放寬檢疫,” *Ta Kung Pao*, May 11, 2020, <http://www.takungpao.com.hk/news/232109/2020/0511/447148.html>; Helen Davidson and agencies, “Carrie Lam blames Hong Kong education system for fuelling protest,” *The Guardian*, May 11, 2020, <https://www.theguardian.com/world/2020/may/11/carrie-lam-blames-hong-kong-education-system-for-fuelling-protests>; Ho-him Chan, “Hong Kong leader Carrie Lam’s warning to schools over teaching of ‘fallacious arguments’ draws fire from union,” *South China Morning Post*, May 12, 2020, <https://www.scmp.com/news/hong-kong/education/article/3083902/hong-kong-leader-carrie-lams-warning-schools-over-teaching>. In July 2020, former Chief Executive Tung Chi-Hwa (in office 1997- 2005) blamed Liberal Studies outright as “one of reasons behind the youth problems today,” calling it a “failure. Jeffie Lam, and Peace Chiu, “Former Hong Kong leader Tung Chee-hwa blames liberal studies at secondary schools for encouraging violent protests among young people,” *South China Morning Post*, July 3, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3017180/former-hong-kong-leader-tung-chee-hwa-blames-liberal>.
- <sup>26</sup> Helen Davidson, “Hong Kong censorship fears as protest slogans removed from some textbooks,” *The Guardian*, August 19, 2020, <https://www.theguardian.com/world/2020/aug/19/hong-kong-censorship-fears-as-protest-slogans-removed-from-some-textbooks>.
- <sup>27</sup> “Hong Kong textbook publishers censor passages on human rights, civil disobedience,” *Apple Daily (English Edition)*, August 19, 2020, <https://hk.appledaily.com/news/20200819/OGX7YMHIC5B5BC3DWBGG4Y3GCM/>.
- <sup>28</sup> “Liberal studies textbook scrubs out voting, civil disobedience,” *The Standard*, August 18, 2020, <https://www.thestandard.com.hk/breaking-news/section/4/153375/Liberal-studies-textbook-scrubs-out-voting,-civil-disobedience>.
- <sup>29</sup> Ho-him Chan, “Hong Kong student, teacher groups launch petition demanding explanation of new vetting process for liberal studies textbooks,” *South China Morning Post*, August 21, 2020, <https://www.scmp.com/news/hong-kong/education/article/3098377/hong-kong-student-teacher-groups-launch-petition-demanding>.
- <sup>30</sup> “Task Force on Review of School Curriculum Final Report,” Hong Kong Education Bureau, September 2020, [https://www.edb.gov.hk/attachment/en/curriculum-development/renewal/taskforce\\_cur/TF\\_CurriculumReview\\_FinalReport\\_e.pdf](https://www.edb.gov.hk/attachment/en/curriculum-development/renewal/taskforce_cur/TF_CurriculumReview_FinalReport_e.pdf).
- <sup>31</sup> Jeffie Lam, Natalie Wong, and Chris Lau, “Hong Kong leader Carrie Lam vows to restore social and constitutional order as well as revive ailing economy,” *South China Morning Post*, November 25, 2020, <https://www.scmp.com/news/hong-kong/politics/article/3111342/hong-kong-leader-pledges-rebuild-confidence-and-restore>.
- <sup>32</sup> Candice Chau, “Hong Kong liberal studies to be renamed and reformed – more China content, less focus on current affairs,” *Hong Kong Free Press*, November 27, 2020, <https://hongkongfp.com/2020/11/27/hong-kong-liberal-studies-to-be-renamed-and-reformed-more-china-content-less-focus-on-current-affairs/>.
- <sup>33</sup> Cannix Yau, “Hong Kong leader Carrie Lam defends liberal studies reform, and says subject was not meant to be debate exercise on current affairs,” *South China Morning Post*, November 28, 2020, <https://www.scmp.com/news/hong-kong/education/article/3111758/hong-kong-leader-carrie-lam-defends-liberal-studies-reform>.
- <sup>34</sup> Ho-him Chan, “Current affairs not suitable for teaching in revamped liberal studies, Hong Kong education chief says,” *South China Morning Post*, December 2, 2020, <https://www.scmp.com/news/hong-kong/education/article/3112173/ongoing-current-affairs-not-suitable-teaching-revamped>.
- <sup>35</sup> Ho-him Chan, “More than 90 per cent of 500 teachers polled say liberal studies reform politically motivated,” *South China Morning Post*, December 9, 2020, <https://www.scmp.com/news/hong-kong/education/article/3113255/more-90-cent-500-hong-kong-teachers-polled-say-liberal>.
- <sup>36</sup> “CESCR General Comment No. 13: The Right to Education (Art. 13),” op. cit.
- <sup>37</sup> Gerry Mullany, “Hong Kong Bans Protest Song and Other Political Expression at Schools,” *The New York Times*, July 8, 2020, <https://www.nytimes.com/2020/07/08/world/asia/hong-kong-students-protests-china.html>; Kelly Ho, “No-one in Hong Kong schools should ‘hold any activities to express their political stance,’ says education chief, as protest song banned,” *Hong Kong Free Press*, July 8, 2020, <https://hongkongfp.com/2020/07/08/no-one-in-hong-kong-schools-should-hold-any-activities-to-express-their-political-stance-says-education-chief-as-protest-song-banned/>.
- <sup>38</sup> “LCQ22: Restricting students' freedom of expression,” press release, The Government of the Hong Kong Special Administrative Region, July 8, 2020, <https://www.info.gov.hk/gia/general/202007/08/P2020070800306.htm>.
- <sup>39</sup> “Benny Tai: Hong Kong university fires professor who led protests,” BBC News, July 28, 2020, <https://www.bbc.com/news/world-asia-china-53567333>.
- <sup>40</sup> “The Senate is the principal academic authority of the University. It is responsible for all academic matters and welfare of students. Its 50 members are mainly academic staff while there are also student representatives.” The University of Hong Kong, undated, [https://www.hku.hk/about/governance/governance\\_structure.html](https://www.hku.hk/about/governance/governance_structure.html).

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<sup>41</sup> “An inquiry committee was initiated last year at the discretion of president Zhang, and it submitted a report by May to the senate. The senate, comprising mainly academics, agreed in early July with the finding that Tai was guilty of “misconduct” but that his actions did not amount to grounds for dismissal.” “Occupy Hong Kong activist Benny Tai fired from role at HKU,” *South China Morning Post*, July 29, 2020, <https://www.scmp.com/yp/discover/news/hong-kong/article/3095095/occupy-hong-kong-activist-benny-tai-fired-role-hku>.

<sup>42</sup> Tai said in a Facebook post on the day of his firing: “[t]he decision to terminate my appointment was made not by the University of Hong Kong but by an authority beyond the University through its agents. It marks the end of academic freedom in Hong Kong. Academic staff in education institutions in Hong Kong are no longer free to make controversial statements to the general public about politically or socially controversial matters.” <https://www.facebook.com/BennyTaiHK/posts/1455230568004033>.

<sup>43</sup> Kang-chung Ng, “Hong Kong protests: Baptist University refuses to renew contract of lecturer convicted over role in demonstrations,” *South China Morning Post*, July 27, 2020, <https://www.scmp.com/news/hong-kong/politics/article/3094908/hong-kong-protests-baptist-university-refuses-renew>.

<sup>44</sup> Danny Lee, “Occupy ringleader Shiu Ka-chun accuses Hong Kong university of ‘political cleansing’ after he is relieved of teaching post,” *South China Morning Post*, January 17, 2020, <https://www.scmp.com/news/hong-kong/politics/article/3046632/occupy-ringleader-shiu-ka-chun-accuses-hong-kong-university>.

<sup>45</sup> “EDB cancels registration of teacher,” press release, The Government of the Hong Kong Special Administrative Region, November 12, 2020, <https://www.info.gov.hk/gia/general/202011/12/P2020111200664.htm>.

<sup>46</sup> “Teacher struck off for pro-independence messages,” RTHK, October 5, 2020, <https://news.rthk.hk/rthk/en/component/k2/1553180-20201005.htm>; “Deep regret over deregistered teacher, says school principal,” *The Standard*, October 9, 2020, <https://www.thestandard.com.hk/breaking-news/section/4/157088/Deep-regret-over-deregistered-teacher,-says-school-principal>.

<sup>47</sup> Ho-him Chan, “Freedom of speech or Hong Kong independence? More details emerge of education row over deregistered teacher,” *South China Morning Post*, October 6, 2020, <https://www.scmp.com/news/hong-kong/education/article/3104436/freedom-speech-or-hong-kong-independence-more-details>.

<sup>48</sup> “Teacher disqualified for ‘promoting Hong Kong independence,’” BBC News, October 6, 2020, <https://www.bbc.com/news/world-asia-54431729>.

<sup>49</sup> A survey among 125 primary and secondary school principals conducted by the Professional Teachers’ Union, the largest teachers’ organization in Hong Kong with more than 90,000 members, showed: 73 percent found the evidence presented by the Education Bureau for the deregistration of the teacher at the Primary Alliance School “insufficient,” and 79 percent found the reprimand of the school’s principals, vice-principal, and three other teachers “unreasonable.” “教育局取消教師註冊 株連校長、同事教協調查：逾七成校長認為不合理、不公義,” Hong Kong Professional Teachers’ Union (HKPTU), November 10, 2020, <https://www.hkptu.org/81579>; HKPTU poll results: <https://www.hkptu.org/wp-content/uploads/2020/11/20201110-annex.pdf>.

<sup>50</sup> “CESCR General Comment No. 13: The Right to Education (Art. 13),” op. cit.

<sup>51</sup> The question was raised in a discussion organized by the Law Society of Hong Kong on July 15, 2020, and quoted in Chris Lau, “National security law: Hong Kong academics might choose self-censorship to protect themselves, law dean warns,” *South China Morning Post*, July 15, 2020, <https://www.scmp.com/news/hong-kong/politics/article/3093337/national-security-law-hong-kong-academics-might-choose-self>.

<sup>52</sup> Vivian Wang, “As Hong Kong Law Goes After ‘Black Sheep,’ Fear Clouds Universities,” *The New York Times*, November 7, 2020, <https://www.nytimes.com/2020/11/07/world/asia/hong-kong-china-national-security-law-university.html>.

<sup>53</sup> *ibid.*

<sup>54</sup> Jerome Taylor, and Xinqi Su, “Security law: Hong Kong scholars fear for academic freedom,” *Hong Kong Free Press*, July 15, 2020, <https://hongkongfp.com/2020/07/15/security-law-hong-kong-scholars-fear-for-academic-freedom/>.