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## Human Rights Council

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**Human rights situations that require the Council's attention**

### **Written statement\* submitted by Human Rights Now, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2021]

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\* Issued as received, in the language(s) of submission only.

## The Collapse of Civil Society Organizations in Hong Kong

Over the last several months in Hong Kong, following relentless harassment, threats, retaliations, and arbitrary punishment by authorities, a flood of civil society organizations (CSOs) have disbanded out of fear of further arbitrary arrests and harassment. The environment of fear created by the government has led to a striking and widespread collapse of civil society voices in Hong Kong, making effective CSO action all but impossible. As Chief Executive Carrie Lam recently summarized the situation, for CSOs crossing “red lines”, “the only choice ... is disbandment”.[1] This development only demonstrates the government’s clear violation of its obligation to respect and protect freedom of expression and association enshrined in its Basic Law.

### I. A List of Disbanded CSOs

A representative list of CSOs disbanded in 2021 follows. However, this is far from a complete list, as many organization dissolutions are not reported by the media.

- January 16: The Union for New Civil Servants disbands after a new loyalty pledge rule threatens the dismissal of refusing civil servants.[2]
- June 2: The Good Neighbor North District Church, which provided support to pro-democracy protestors since 2019, ceases its operations after retaliatory harassment, including the freezing of its bank account by police on suspicion of money laundering in December 2020.[3]
- June 25: Local political groups Community Sha Tin and Neo Democrats disband, with the latter citing a political environment “much worse than before.”[4]
- June 28: Frontline Doctors Union dissolves after 20 years of operation, with the former vice president stating that “no one would like to take over.”[5] Winandmac, a progressive online media outlet, also announces the cancellation of its local business registration and the movement of its office overseas as a “safeguard ... amid the political storm.”[6]
- June 30: The medical group Médecins Inspirés announces its immediate dissolution.[7] On the same day, the open data advocacy group GOV.HK announces its disbandment citing “recent restrictions”.[8]
- July 1: The pro-democracy church Ekklesia Hong Kong ceases operations.[9]
- July 6: The Progressive Lawyers Group, founded in 2015 and vocal on legal and political issues including the city’s human rights and judicial independence, as well as the Progressive Teachers’ Alliance announce their disbanding.[10] The disbanding of eight groups is also reported, including four mentioned previously.[11]
- August 10: The Hong Kong Professional Teachers’ Union, Hong Kong’s largest teachers’ unions, announces its disbandment.[12]
- August 13: Civil Human Rights Front (CHRF), organizer of some of the largest protests, decides to disband.[13]

### II. Challenges facing CSOs that contribute to their disbandment

The undeniable reason behind this flood of recent CSO dissolutions is the harassment, threats, and persecution by the government against them. Four government policies, which have been used to harass or punish other CSOs and have led to justified fears of their further application, have created particularly coercive pressure on CSOs to dissolve. These are the criminalization of: (1) legitimate expression under an over-broad application of sedition; (2) legitimate international engagement as “collusion with foreign forces”; and (3)

legitimate fundraising efforts; as well as (4) the repressive political atmosphere creating fears of future harassment and prosecution.

#### (1) The Overbroad Definition of Sedition

The activist Tam Tak-chi and radio host Wan Yiu-sing were arrested earlier this year for alleged seditious remarks under the so-called “Sedition Law”,<sup>[14]</sup> related to calling for an assembly protesting an election postponement and for using popular protest slogans (such as “Liberate Hong Kong, revolution of our times”), respectively.

The Sedition Law counts raising “discontent or disaffection” among people as a “seditious intention”, a clearly overbroad coverage which can criminalize legitimate expression, including essentially any CSO call on the public to oppose a government policy, one of the vital roles of civil society for which protections of the freedoms of expression, assembly, and association were exactly designed to protect.<sup>[15]</sup> The Human Rights Committee expressed this concern in multiple reviews of Hong Kong,<sup>[16]</sup> and six Special Rapporteurs noted the Sedition Law’s incompatibility with international human rights law in April 2020.<sup>[17]</sup>

A further concern is the blurring line between the Sedition Law and the more severe “National Security Law” (NSL), where the content of expression (typically linked, even when arbitrary, to sedition charges) is linked to a national security risk and arbitrary application of the NSL.<sup>[18]</sup> Individuals charged with NSL offences are afforded fewer procedural guarantees (including right to bail<sup>[19]</sup> and right to jury trial<sup>[20]</sup>) and could face life imprisonment. The unjustifiable blending of Sedition Law and NSL chills CSO action by the fear of uncertainty of receiving significantly harsher treatment than expected, and more than 130 people, including many democracy advocates, have already been arrested under the NSL.<sup>[21]</sup>

For example, in refusing to grant bail in the aforementioned Wan case, the magistrate applied the NSL’s strict standard which reverses the common law presumption of bail<sup>[22]</sup> under the argument that the charges, although not under the NSL, affected national security.<sup>[23]</sup> In another case, Tong Ying-kit faces charges of terrorism and inciting secession under the NSL after driving his motorbike into police officer during a rally while carrying a flag with the protest slogan mentioned above, counting the expression as grounds for NSL charges.<sup>[24]</sup>

#### (2) International Engagement as “Collusion with Foreign Forces”

Article 29(4) of the NSL criminalises collusion with foreign organisations or individuals to engage in hostile activities against HKSAR. Recent cases have raised fears among CSOs that the law may restrict their legitimate international engagement, including with the United Nations itself.

For example, the aforementioned CHRF faced a police investigation into its legality in April 2021 which included probes into its funding sources, expenses, bank accounts, reasons for not registering, and particularly relevant here, reasons for co-signing a joint petition to the UN High Commissioner for Human Rights co-signed by 25 other human rights groups last December.<sup>[25]</sup> In another case, on August 19, activists Andy Li and Chan Tsz-wah pled guilty to “colluding with foreign forces” charges for publishing advertisements and articles in overseas newspapers calling for sanctions.<sup>[26]</sup>

#### (3) The Targeting of CSO Fundraising

CSOs which receive overseas funding or other forms of support are particularly vulnerable to harassment or NSL violations for engaging with international organisations, especially those receiving funding from United States-based organizations. The government also tightly controls local fundraising efforts. Several organisations have been charged with money laundering and other crimes due to online fundraising activities. Reportedly, the

basis for these accusations include technical irregularities such as using an account for a purpose not specified at the time it was opened, using personal or other corporate bank accounts to collect crowdfunding donations, and receiving a large amount of money from unknown sources, which should not justify criminalization.[27]

#### (4) Threats Posed by the Hostile Political Environment

The hostile political environment against CSOs, fostered by the government's statements, threats, and harassment, has greatly chilled their advocacy, especially after the resignation or disqualification of pro-democracy Legislative Council members and district councillors. Such a hostile environment raises questions about whether the remaining pro-democracy members are willing or able to advance social justice issues in the legislature.

CSOs advocating for the rights of minorities, including ethnic and sexual minorities, and persons with disabilities, are similarly concerned about the further marginalization of such vulnerable groups amidst the shrinking civic space and repressive political atmosphere. They are always mindful that their online publication could be perceived as over-critical of the government, which might attract negative or even criminal legal consequences.

### III. The Government of Hong Kong Must Create a Safe Environment for CSOs

Human Rights Now is deeply concerned by the flood of recent CSO dissolutions and the hostile environment created by the Hong Kong government against them. We call on it to take measures which end the harassment and arbitrary punishment of CSOs, which respect and protect their rights to freedom of expression, assembly, and association and freedom from arbitrary arrest, and which create a safe political environment where CSO activities can flourish and not be cowed into silence and disbandment by fears of government retribution.

[1] <https://time.com/6090835/hong-kong-civic-groups-crackdown/>.

[2] <https://hongkongfp.com/2021/01/18/hong-kong-civil-servants-union-formed-during-2019-demos-disbanded-cites-govt-loyalty-pledge/>; <https://hongkongfp.com/2021/01/16/hong-kong-civil-servants-given-four-weeks-to-sign-declaration-of-allegiance-or-face-possible-dismissal/>.

[3] <https://www.thestandnews.com/politics/曾組織守護孩子-行動好鄰舍北區教會宣布停止運作> (Chinese); <https://hongkongfp.com/2020/12/08/hong-kong-church-says-hsbc-account-frozen-in-retaliation-for-helping-protesters-last-year/>.

[4] <https://hongkongfp.com/2021/07/06/security-law-at-least-8-hong-kong-pro-democracy-groups-disband-in-past-2-weeks-including-lawyers-group/> (8 Groups Disband);

<https://hongkongfp.com/2021/06/28/hong-kong-neo-democrats-party-disbands-citing-security-law-and-much-worse-political-environment/>.

[5] 8 Groups Disband, id.

[6] <https://www.thestandard.com.hk/section-news/section/11/231630/RTHK-axes-veteran-host-amid-changes>

[7] 8 Groups Disband, supra note 4.

[8] <https://news.rthk.hk/rthk/en/component/k2/1598514-20210630.htm>.

[9] <https://www.thestandnews.com/politics/春天教會宣布解散 堂主任紅線處離權平風險改個人名義免牽連他人> (Chinese).

[10] 8 Groups Disband, supra note 4.

[11] Id.

[12] <https://hongkongfp.com/2021/08/10/breaking-hong-kongs-largest-teachers-union-to-disband-following-pressure-from-govt-and-chinese-state-media/>.

[13] <https://www.scmp.com/news/hong-kong/politics/article/3144979/hong-kong-activists-unions-vow-fight-ahead-expected-break>.

[14] Sections 9 and 10 of the Public Order Ordinance; <https://www.scmp.com/news/hong-kong/politics/article/3100740/what-hong-kongs-colonial-era-sedition-law-and-how-does-it>.

- [15] Crimes Ordinance, Cap. 200, Section 9(1)(d).
- [16] A/HRC/40/52, para. 27; CCPR/C/CHN-HKG/CO/3, para. 14; CCPR/C/HKG/CO/2, para. 14; CCPR/C/79/Add.117, para. 18.
- [17] OL CHN 7/2020.
- [18] Law of the People's Republic of China on Safeguarding National Security in the Hong Kong SAR
- [19] HKSAR v Lai Chee Ying [2021] HKCFA 3.
- [20] Tong Ying Kit v Secretary for Justice [2021] HKCA 912.
- [21] <https://www.aljazeera.com/news/2021/8/19/hong-kong-pro-democracy-activist-found-guilty-under-security-law>.
- [22] HKSAR v Lai Chi-ying [2021] HKCFA 2.
- [23] HKSAR v Wan Yiu-sing [2021] HKCFI 1261, <https://www.hklii.hk/cgi-bin/sinodisp/eng/hk/cases/hkcfi/2021/1261.html>.
- [24] <https://www.bbc.com/news/world-asia-china-58022072>
- [25] <https://hongkongfp.com/2021/04/27/organiser-of-hong-kongs-mass-pro-democracy-demos-faces-police-probe-as-force-demands-financial-records/>.
- [26] <https://www.aljazeera.com/news/2021/8/19/hong-kong-pro-democracy-activist-found-guilty-under-security-law>.
- [27] <https://www.scmp.com/news/hong-kong/law-and-crime/article/3042840/police-freeze-hk70-million-raised-group-support-hong>; <https://hongkongfp.com/2020/11/16/hong-kong-police-arrest-man-for-money-laundering-after-crowdfunding-for-protest-sentencing/>; <https://hongkongfp.com/2021/05/11/hong-kong-radio-host-slapped-with-new-dirty-money-and-sedition-plotting-charges/>.