

HONG KONG 2021 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Hong Kong is a Special Administrative Region of the People's Republic of China. The 1984 Sino-British Joint Declaration and the Basic Law of the Special Administrative Region specified that, except in matters of defense and foreign affairs, Hong Kong would have a high degree of autonomy under the "One Country, Two Systems" framework. During the year, China continued to dismantle Hong Kong's political freedoms and autonomy in violation of these international commitments. Amendments to the Basic Law fundamentally changed Hong Kong's electoral system to allow Beijing effectively to block participation of political groups not approved by Beijing. The Hong Kong government arrested or disqualified opposition pan-democratic politicians, blocking their participation in upcoming elections. Pro-Beijing candidates won 89 of the 90 seats in the December Legislative Council election, which was widely regarded as fundamentally flawed. The turnout rate of 30.2 percent was a record low since Hong Kong's handover to the People's Republic of China in 1997.

The Hong Kong Police Force maintains internal security and reports to the Security Bureau. The Security Bureau continues to report to the chief executive; however, the National Security Department of the Hong Kong Police Force, established by the National Security Law, operates under the supervision of the central government, and the National Security Law permits the embedding of mainland security personnel within the department. In addition, the National Security Law established a Committee on National Security in the Hong Kong government that reports to the central government, as well as an Office for Safeguarding National Security in Hong Kong that is staffed by members of mainland security agencies. Unaccountable under Hong Kong law, the Office allows mainland China security elements to operate openly, contradicting the spirit and practice of the Sino-British Joint Declaration and the "One Country, Two Systems" framework. It is no longer clear if Hong Kong's civilian authorities maintain effective autonomous control over the city's security services. Hong Kong security forces have taken actions – to include arrests against nonviolent

There is no legal restriction against members of historically marginalized or ethnic minority groups running for electoral office or serving as electoral monitors. There were, however, no members of ethnic minority groups in the Legislative Council, and members of such groups reported they considered themselves unrepresented.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were, however, reports of government corruption and a growing culture of impunity from prosecution for police and security sector officials.

Corruption: Opposition activists claimed that three senior government officials were treated leniently after attending a group dinner in violation of social distancing regulations in March. The Department of Justice cleared a senior police official in the National Security Department of illegal misconduct for visiting an unlicensed massage parlor where illegal sex services were reportedly being offered, although six women were arrested and four ultimately charged from the same police raid. The officer was subsequently reassigned to lead the police force personnel and training department.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups reported increasing government scrutiny, harassment, and restrictions, although some continued to investigate and publish their findings on human rights cases. The SAR used the NSL to force organizations expressing criticism of the PRC to cease operations, to self-censor, or to change operational procedures to protect their staff. The forced disbandment of multiple trade unions and other organizations created a chilling effect on the remaining groups that were historically critical of the central government.

In October Amnesty International announced it would close its Hong Kong office, as well as its Hong Kong-based regional office, by the end of the year. The organization stated that the NSL made it “impossible for human rights organizations in Hong Kong to work freely and without fear of serious reprisals from the government.”

PRC and SAR officials repeatedly accused local and international NGOs that alleged human rights abuses in the SAR of “sowing discord.”

A SAR court denied bail to a media executive in November in apparent response to international condemnation of the executive’s arrest as an infringement on freedom of the press. The court cited a statement by the Media Freedom Coalition, signed by 21 governments, as well as a separate statement by the United Kingdom’s foreign secretary, as evidence of a close association among Cheung Kim-hung, CEO of *Apple Daily* parent company Next Digital, and “foreign political groups.”

Government Human Rights Bodies: There is an Office of the Ombudsman and an Equal Opportunities Commission. The government recruits commissioners to represent both offices through a professional search committee, which solicits applications and vets candidates. Commissioners were independent. Both organizations operated without interference from the SAR government and published critical findings in their areas of responsibility. NGOs stated that the Equal Opportunities Commission had a narrow mandate that did not allow for deep investigations, and limited support from the SAR government.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape against women, including spousal rape, but does not explicitly criminalize rape against men. Support organizations for sexual and domestic violence reported an increase in gender-based violence based on the larger volume of calls to their hotlines and requests for mental health-care assistance. Activists expressed concern that rape was underreported, especially within ethnic minority communities.

The law does not directly criminalize domestic violence, but the government

regarded domestic violence against women as a serious concern. Abusers may be liable for criminal charges under laws on offenses against the person, sexual assault, and child mistreatment, depending on which act constituted domestic violence. The government effectively prosecuted violators under existing criminal violations.

The law allows survivors to seek a three-month injunction, extendable to six months, against an abuser. The ordinance covers abuse between spouses, heterosexual and homosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects victims younger than 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against abuse by parents, siblings, and specified immediate and extended family members. The law also empowers courts to require that an abuser attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an arrest warrant to an existing injunction and extend the validity of both injunctions and arrest warrants to two years.

The government maintained programs provided intervention, counseling, and assistance to domestic violence survivors and abusers.

Sexual Harassment: The law prohibits sexual harassment or discrimination based on sex, marital status, and pregnancy. The law applies to both men and women, and police generally enforced it effectively. There were multiple reports, however, of sexual harassment in housing, the workplace, and universities.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The government provides access to sexual and reproductive health services, including emergency contraception, for survivors of sexual violence.

Discrimination: Women enjoy the same legal status and rights as men. The SAR's sexual discrimination ordinance prohibits discrimination based on sex or pregnancy status, and the law authorizes the Equal Opportunities Commission to work towards the elimination of discrimination and harassment as well as to promote equal opportunity for men and women. Although the government generally enforced these laws, women reportedly faced some discrimination in

employment, salary, welfare, inheritance, and promotion.

Systemic Racial or Ethnic Violence and Discrimination

Although ethnic Chinese account for most of the population, the SAR is a multiethnic society, with persons from multiple ethnic groups recognized as permanent residents with full rights by law. The law prohibits discrimination, and the Equal Opportunities Commission oversees implementation and enforcement of the law. The commission maintained a hotline for inquiries and complaints concerning racial discrimination. Although the SAR government took steps to reduce discrimination, there were frequent reports of discrimination against ethnic minorities; the law does not clearly cover racial discrimination occurring during law enforcement activity.

Advocates stated there were indications of racism in COVID-19 testing and quarantine measures. Returning South and Southeast Asian SAR minority group residents complained of poor quarantine facilities, wait times, and diet, and accused the SAR of discrimination.

Persons born in mainland China also experienced frequent discrimination. Nonpermanent residents did not receive SAR cash subsidies to help with the COVID-19 pandemic-related economic downturn until eight months after the pandemic spread to the SAR.

Children

Birth Registration: All Chinese nationals born in the SAR, on the mainland, or abroad to parents, of whom at least one is a Chinese national and Hong Kong permanent resident, acquire both Chinese citizenship and Hong Kong permanent residence. Children born in the SAR to non-Chinese parents, at least one of whom is a Hong Kong permanent resident, acquire SAR permanent residence and qualify to apply for naturalization as Chinese citizens. Authorities routinely registered all such statuses.

Child Abuse: The law mandates protection for survivors of child abuse (battery, assault, neglect, abandonment, and sexual exploitation), and the SAR government enforced the law. The law allows for the prosecution of certain sexual offenses,

including those against minors, committed outside the territory of the SAR.

The government provided parent education programs through its maternal- and child-health centers, public education programs, clinical psychologists, and social workers. Police maintained a child abuse investigation unit and, in collaboration with the Social Welfare Department, operated a child witness support program.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 16 for both girls and boys; however, parents' written consent is required for marriage before age 21.

Sexual Exploitation of Children: The age of consent is effectively 16. By law, a person having "unlawful sexual intercourse" with a person younger than 16 is subject to five years' imprisonment, while unlawful sexual intercourse with a person younger than 13 carries a sentence of life imprisonment. The law prohibits the commercial sexual exploitation of children and procuring children for commercial sex. The law makes it an offense to possess, produce, copy, import, or export pornography involving a child or to publish or cause to be published any advertisement that conveys, or is likely to be understood as conveying, the message that a person has published, publishes, or intends to publish any child pornography. Authorities enforced the law. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

International Child Abductions: The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The active Jewish community numbered approximately 2,500 persons. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government generally enforced these provisions. The government took action to investigate and punish those responsible for violence or abuses against persons with disabilities. The government generally implemented laws and programs to provide persons with disabilities access to education, employment, the judicial system, and health services. The law on disabilities states that children with separate educational needs must have equal opportunity in accessing education. Some human rights groups considered the SAR's disability law too limited and that its implementation did not promote equal opportunities. The Social Welfare Department provided training and vocational rehabilitation services to assist persons with disabilities, offered subsidized resident-care services for persons deemed unable to live independently, offered preschool services to children with disabilities, and provided community support services for persons with mental disabilities, their families, and other residents interested in improving their mental health.

The government generally implemented laws and programs to provide persons with disabilities access to information, communications, and buildings, although there were reports of some restrictions. The law calls for improved building access and provides for sanctions against those who discriminate.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

No laws criminalize consensual same-sex sexual conduct between adults. While the SAR has laws that ban discrimination on the grounds of race, sex, disability, and family status, no law prohibits companies or individuals from discriminating on grounds of sexual orientation or gender identity. There are also no laws that specifically aid in the prosecution of bias-motivated crimes against members of the

lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) community. Lawmakers expressed both strong support for, and strong opposition to, LGBTQI+ rights. LGBTQI+ activists reported that they considered the courts to be the primary avenue to secure LGBTQI+ rights and viewed the courts as impartial in decisions on LGBTQI+ issues.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for workers to form and join unions, but the SAR and PRC authorities took repeated actions that violated the principle of union independence. The law does not protect the right to collective bargaining or obligate employers to bargain. The law prohibits civil servants from bargaining collectively.

The law prohibits firing an employee for striking and voids any section of an employment contract that punishes a worker for striking. The commissioner of police has broad authority to control and direct public gatherings, including strikes, in the interest of national security or public safety.

By law an employer may not fire, penalize, or discriminate against an employee who exercises his or her union rights and may not prevent or deter the employee from exercising such rights. Penalties for violations of laws protecting union and related worker rights include fines as well as legal damages paid to workers. Penalties were commensurate with those under other laws involving the denial of civil rights.

The law was not effectively enforced, and the government repressed independent unions and their confederations. SAR and national authorities publicly claimed that strikes and other union-organized activities during the prodemocracy movement in 2019-20 were “anti-China” in nature, and pressure from officials and from PRC-supported media outlets led many unions to disband.

In August, the Hong Kong Professional Teachers’ Union, the city’s largest professional trade union with approximately 95,000 members, decided to dissolve after facing pressure from PRC-supported media, which called the union a “poisonous tumor” to be eradicated, and the announcement hours later by the Hong

Kong Education Bureau that it would cease working with the union.

On October 3, the Hong Kong Confederation of Trade Unions voted to dissolve. Founded in 1990, the confederation included more than 80 unions from a variety of trades and grew to more than 100,000 members. Chairman Wong Tik-yuen reported that union members received threats against their personal safety if union operations were to continue.

b. Prohibition of Forced or Compulsory Labor

The law does not prohibit all forms of forced or compulsory labor, nor do laws specifically criminalize forced labor. Instead, the SAR uses its Employment and Theft Ordinances to prosecute forced labor and related offenses. Because these violations are typically civil offenses with fines, penalties for these offenses were not commensurate with those for analogous serious crimes, such as kidnapping, which violate the Crimes Ordinance and carry prison terms.

NGOs expressed concerns that some migrant workers, especially domestic workers in private homes, faced high levels of indebtedness assumed as part of the recruitment process, creating a risk they could be subjected to forced labor through debt-based coercion. Domestic workers in the SAR were mostly women and mainly came from the Philippines, Indonesia, and other Southeast and South Asian countries. The SAR allows for the collection of maximum placement fees of 10 percent of the first month's wages, but some recruitment firms required large up-front fees in the country of origin that workers struggled to repay. Some locally licensed employment agencies were suspected of colluding with local money lenders and agencies overseas to profit from debt schemes, and some local agencies illegally withheld the passports and employment contracts of domestic workers until they repaid the debt.

SAR authorities stated they encouraged aggrieved workers to file complaints and make use of government conciliation services, and that they actively pursued reports of any labor violations (see section 7.e., Acceptable Conditions of Work).

See also the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. Regulations prohibit employment of children younger than 15 in any industrial establishment. Children younger than 13 are prohibited from taking up employment in all economic sectors. Children who are 13 or older may be employed in nonindustrial establishments, subject to certain requirements, such as parental written consent and proof the child has completed the required schooling.

The Labor Department effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. Penalties for child labor law violations include fines and legal damages and were not commensurate with those for analogous serious crimes, such as kidnapping, that violate the Crimes Ordinance and carry prison terms.

d. Discrimination with Respect to Employment and Occupation

The law and regulations prohibit employment discrimination based on race or ethnicity, disability, family status (marital status or pregnancy), or sex. The law stipulates employers must prove that proficiency in a particular language is a justifiable job requirement if they reject a candidate on those grounds. Regulations do not prohibit employment discrimination on the grounds of age, color, religion, political opinion, national origin or citizenship, sexual orientation or gender identity, HIV or other communicable disease status, or social status. The law authorizes the Equal Opportunities Commission to work towards the elimination of discrimination and harassment as well as to promote equal opportunity for men and women.

The government generally enforced these laws and regulations. In cases in which employment discrimination occurred, SAR courts had broad powers to levy penalties on those violating these laws and regulations. Although the government generally enforced these laws, women reportedly faced some discrimination in employment, salary, welfare, inheritance, and promotion.

Human rights activists and local scholars continued to raise concerns about job prospects for minority students, who were more likely to hold low-paying, low-

skilled jobs and earn below-average wages.

e. Acceptable Conditions of Work

Wage and Hour Laws: The statutory minimum wage was below the poverty line for an average-sized household. The law does not regulate working hours, paid weekly rest, rest breaks, or compulsory overtime for most employees. Several labor groups reported that employers expected extremely long hours and called for legislation to address that concern.

Occupational Safety and Health: The law includes occupational safety and health standards for various industries. Workplace health and safety laws allow workers to remove themselves from situations that endanger health or safety without jeopardy to their employment. Employers are required to report any injuries sustained by their employees in work-related accidents.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, identification of unsafe conditions, enforcement of safety management legislation, and policy formulation and implementation. Inspectors have the authority to make unannounced inspections and initiate investigations and prosecutions. For the first half of the year, the Labor Department reported 14,368 cases of occupational accidents.

The government effectively enforced the law, and the number of labor inspectors was sufficient to enforce compliance except in the cases of nonpayment or underpayment of wages to, and working conditions of, domestic workers. There were many press reports regarding poor conditions faced by, and underpayment of wages to, domestic workers. Labor inspectors have the authority to conduct unannounced inspections and initiate sanctions. Penalties for violations of the minimum wage or occupational safety and health standards include fines, damages, and worker's compensation payments. These penalties were commensurate with those for similar crimes. The Labor Tribunal adjudicated disputes involving nonpayment or underpayment of wages and wrongful dismissal.