



# Hong Kong

In the Hong Kong Special Administrative Region (HKSAR), Scholars at Risk (SAR) reported a continuation of arrests, prosecutions, and university disciplinary actions targeting outspoken scholars and students since the 2019 pro-democracy protest movement. University officials took actions to cancel campus events and effectively cut ties with student unions. Meanwhile the Beijing-imposed National Security Law continues to raise serious concerns about restrictions on academic freedom, among other rights.

The HKSAR is bound by national and international legal instruments that provide protections for academic freedom. Since the 1997 transition of Hong Kong's sovereignty from the United Kingdom to China, Hong Kong has remained a party to the International Covenant on Civil and Political Rights (ICCPR), which provides for freedom of opinion and expression (Article 19), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which provides for the right to education (Article 13) and calls on state parties to “respect the freedom indispensable for scientific research and creative activity” (Article 15(3)). Full exercise of academic freedom depends also on respect for institutional autonomy, defined as “that degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights.”<sup>1</sup> Hong Kong's Basic Law, popularly referred to as its “mini constitution,” provides protections for academic freedom, institutional autonomy.<sup>\*</sup> Article 27 of the Basic Law also provides for freedoms of expression and assembly, both particularly relevant to incidents involving student and scholar political expression discussed here.

Over the past year, particularized attacks, broad pressures on higher education communities, and public concerns regarding the same frequently related to the controversial National Security Law (NSL). The NSL was drafted by China's central government and imposed on Hong Kong in June 2020. It purports to “safeguard national security” and punish “offences of secession, subversion, organisation and perpetration of terrorist activities, and collusion with a foreign country or with external elements to endanger national security in relation to the Hong Kong Special Administrative Region.” The law claims jurisdiction outside the PRC, stipulating in Article 38 that its application extends to “offences [ . . . ] committed against the [HKSAR] from outside the Region,” including offences committed by non-residents of the HKSAR and non-citizens of the PRC. Those convicted under the NSL, may face lengthy prison sentences, including, in “grave” cases, life imprisonment.

Under the NSL, higher education institutions, like their primary and secondary school counterparts, are required to promote national security education, including through curricula that educate students on the NSL, and should prepare to “prevent and suppress” activities that run counter to the NSL.<sup>2</sup> In November 2020, the National Security Department set up a “tip line” for citizens to report alleged

\* Hong Kong's Basic Law includes guarantees that higher education institutions in the region “may retain their autonomy and enjoy academic freedom,” (Article 137) that “Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities,” (Article 34) and that the HKSAR “shall, on its own, formulate policies on the development and improvement of education, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards and the recognition of educational qualifications” (Article 136).

violations of the NSL.<sup>3</sup> A report by *The Atlantic* noted that a postgraduate student at the **University of Hong Kong** (HKU) had reported two academics from that institution to the tip line for reasons that were not mentioned in the report.<sup>4</sup> In March 2021, Hong Kong's University Grants Committee reminded leaders of public universities of their responsibility to uphold the legal requirements of the NSL, raising concerns that funding may depend on their enforcement of and education regarding the NSL.<sup>5</sup> In July, it was reported that three universities in Hong Kong, including **Hong Kong Baptist University** (HKBU), **Hong Polytechnic University**, and **Lingnan University**, would require teaching of the NSL to undergraduate students.<sup>6</sup>

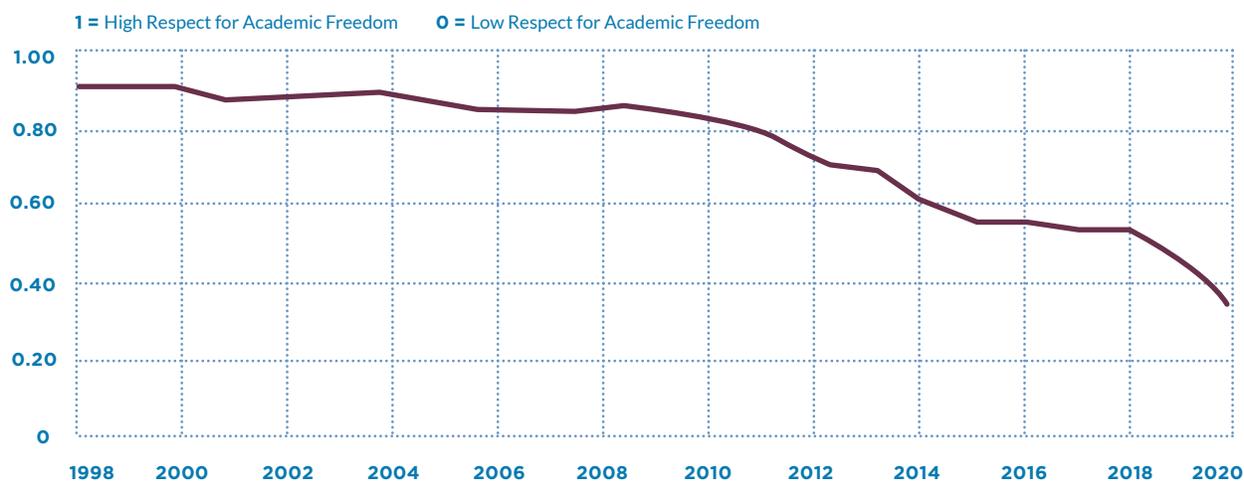
Local and international human rights experts and scholars have raised concerns over a severe chilling effect the NSL would have on academic freedom and other expressive activity. A May 2021 survey conducted by the Hong Kong Public Opinion Research Institute found that, among 7,216 Hong Kong residents polled, nearly 60% thought the NSL restricted academic freedom, while 45% believed that higher education institutions were not making efforts to protect academic freedom.<sup>7</sup>

Students and scholars have been arrested and prosecuted, including under the NSL, for their expressive activities. On December 7, 2020, police

arrested one current student and five recent graduates of the **Chinese University of Hong Kong** (CUHK) for their alleged participation in a protest on November 19.<sup>8</sup> Authorities charged them with “inciting secession” under the NSL for participating in a commencement day march and rally on the CUHK campus, during which pro-democracy and pro-independence themes were chanted and displayed on banners. Another CUHK student accused of participating in the same commencement day protest was arrested in Hong Kong on February 18, 2021.<sup>9</sup> The student, whose name was not disclosed in news reports, was charged with “participating in an unauthorized assembly” and “incitement to secession.” CUHK leadership reportedly called on Hong Kong's National Security Police to investigate the protest.<sup>10</sup>

Although most prosecutions of scholars and students under the NSL have not advanced very far, prosecutions of prominent government critics and pro-democracy figures—including, for example, Apple Daily founder Jimmy Lai and barristers Margaret Ng and Martin Lee, among others—accelerated in 2020 and 2021, suggesting a likelihood of more aggressive use of the NSL or other laws against members of higher education communities who continue to assert their academic freedom and right to freedom of expression.<sup>11</sup>

## ACADEMIC FREEDOM INDEX: HONG KONG



Over the past decade, China's Central Government has sought to increase its control over the Hong Kong Special Administrative Region, including the region's higher education community. Hong Kong authorities have prosecuted prominent scholars for views critical of their leadership and of the Central Government, cracked down on student protesters through the use of force, investigations, and arrests, and quickly worked with Beijing to enforce a controversial National Security Law, imposed on the region in 2020, that effectively criminalizes a wide range of expressive activity. Learn more about the above data, made available by the Academic Freedom Index, a tool co-developed by the Global Public Policy Institute (GPPI), the Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU), the V-Dem Institute, and SAR, at <https://www.gppi.net/2021/03/11/free-universities>.

University administrations used disciplinary measures to punish expression they considered objectionable. Suspensions were ordered for two Hong Kong University of Science and Technology (HKUST) students who helped to organize an on-campus memorial to mark six months since the death of Alex Chow Tsz-lok, a classmate who died during a police intervention at one of the 2019 pro-democracy protests.<sup>12</sup> **Donald Mak Ka-chun**, the president of the student union, and **Lo Kai-ho**, the vice-president of the student union, were suspended for one semester for holding the memorial during the COVID-19 pandemic and allegedly refusing to remove event materials and slogans from campus notice boards and a campus path. Mak responded to the alleged violations by stating that the student union enforced strict social distancing measures at the memorial, including providing temperature checks and hand sanitizer to attendees.

University authorities took actions to cancel campus events they suspected of triggering NSL violations. In February 2021, **HKU** pressured its student union to cancel screenings of *Lost in the Fumes*, a 2016 documentary about HKU graduate Edward Leung, who was imprisoned for his pro-independence activism. According to the *Hong Kong Free Press*, university officials urged the students to cancel viewings of the documentary, scheduled to begin on February 3, 2021, stating in one informal communication that slogans uttered in the documentary would invite “undesirable attention of opposition party and law enforcement agencies” and that the showings would “expose” the student union to “extremely high risk.”<sup>13</sup> Students showed the film despite HKU’s warning. At **HKBU**, administrators ordered the cancellation of an international photo exhibition that featured photos of scenes from the 2019 pro-democracy protests. HKBU cited “campus safety and security, and the need to maintain pandemic control” in its decision to cancel the World Press Photo exhibition, just two days before its opening on March 1.<sup>14</sup> The exhibition was ultimately hosted at an outside institution.

Three of Hong Kong’s leading universities sanctioned their student unions, based on the views and expressions of union members and leadership. On February 25, **CUHK**’s administration took action against its student union, suspending its practice of collecting student union fees on behalf of the union, requiring the union to register as an independent society or company and assume its own legal responsibility, suspending certain members of the union’s executive committee from their ex-officio positions in all CUHK committees, and withholding CUHK’s administrative support to the union’s

executive committee and the provision of venues for its activities.<sup>15</sup> The university alleged that members of the union’s cabinet made potentially “unlawful remarks” as candidates, apparently referring to comments about “national security matters,” and made “false allegations against [CUHK].”<sup>16</sup> Days later, cabinet members announced their resignation, saying that they had lost their mandate after withdrawing their election manifesto and citing death threats and harassment they and their family members were subjected to following the university’s announcement. Roughly two months later, on April 28, **HKU** took action against its student union (HKUSU) on similar grounds.<sup>17</sup> Weeks earlier, the HKUSU had issued an open letter to HKU’s president, stating concerns over the mandated national security education and how it was to be implemented. *People’s Daily*, which is backed by the Chinese Communist Party, attacked the students’ letter with an article describing the HKUSU as a “malignant tumour,” and claiming that the union had “discredited” national security education and “reached a point where it has to be controlled as it has been testing the bottom line crazily.” HKU’s administration moved to “stop collecting membership fees on behalf of the HKUSU, cease providing financial management services for [HKUSU],” and “enforce its management rights over the offices and other facilities currently used by HKUSU.” The administration described the union as “increasingly politicized.” Three months later, on July 13, the university announced that it officially de-recognized HKUSU and commenced an investigation into the union’s council, in response to a declaration the union passed on July 7 that expressed sympathy for a man who killed himself after stabbing a Hong Kong police officer.<sup>18</sup> The union’s leadership apologized, withdrew the declaration, and resigned shortly after facing criticism for its publication.<sup>19</sup> Hong Kong Chief Executive Carrie Lam condemned the union’s declaration and called on the university to take action against the students.<sup>20</sup> Days after the union was de-recognized, police launched an investigation and carried out a search of the union’s offices.<sup>21</sup> Hong Kong’s Police Commissioner later said that the declaration may have violated the NSL.<sup>22</sup> On August 4, the university barred students who attended the July 7 meeting from entering the HKU campus.<sup>23</sup> Police later arrested four HKUSU members under the NSL for attending the meeting.<sup>24</sup> Concerns over political actions against a student union were also raised at **HKBU**, where on July 26 administrators announced that they would no longer collect membership fees on behalf of the union.<sup>25</sup> The decision, announced the same day that NSL education would become mandatory, raised concerns among union leadership

that it would seriously hinder its ability to raise funds and attract members. HKBU's president said that he had always disagreed with the practice of universities collecting membership fees on behalf of unions.<sup>26</sup>

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Hong Kong's academic freedom reached a new point of vulnerability following Beijing's imposition of the NSL. The new law and the apparent growing acquiescence of local government officials and higher education leaders to the mainland government, as evidenced by a continuing trend of arrests, prosecutions, and university disciplinary measures intended to punish ideas, risk further eroding Hong Kong's status as a leading global hub for academic and scientific activity and exchange, isolating the region and its higher education community, to everyone's detriment.

SAR calls on Hong Kong and mainland Chinese authorities to immediately release scholars, students, and others who have been arrested and are being prosecuted under the NSL and other laws for peaceful, expressive activity; repeal or, at a minimum, revise the NSL to conform to international standards of academic freedom, freedom of expression, due process, and other fundamental human rights; ensure that university governance and disciplinary proceedings are free of political considerations; and promote the academic freedom and institutional autonomy of Hong Kong's higher education community. SAR further calls on the international higher education community and governments to press Hong Kong and mainland authorities to take the above actions immediately, respect academic freedom and institutional autonomy in the HKSAR, and ensure that all partnerships with counterparts in the region respect academic freedom and institutional autonomy.

## ENDNOTES

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