



One Country, Two Systems Under Attack: Challenges for the UK Government

Submission by Human Rights in China to the

Conservative Party Human Rights Commission
Inquiry on China 2020

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To the Conservative Party Human Rights Commission Inquiry on China

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. For almost thirty years, led by Chinese and supported by a diverse board, HRIC is committed to short-, near-, and long-term work to support the activists and rights defenders in China trying to peacefully exercise fundamental rights and press for rule of law.

Since 1996, we have also maintained a presence in Hong Kong, initially as a listening and reporting post. HRIC's mission has evolved to include the protection of human rights in Hong Kong, with a focus on freedom of expression, association, and assembly. HRIC's program work includes media and policy advocacy, maintaining a timeline of events and other resources to promote effective international community engagement. <https://www.hrichina.org/en/hong-kong-program-work>



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I. Introduction: What's at Stake

1. A non-accountable regime that systematically tramples on the rights of its citizens and dismisses its international commitments and ignores international standards presents a threat to the entire world.”¹ As Human Rights in China has recently pointed out, the impact of China’s onslaught on the fundamental rights of the people of Hong Kong and the Hong Kong Special Administrative Region’s rule of law reaches far beyond Hong Kong. Recent and ongoing developments in Hong Kong vividly and painfully highlight the encroachment on the “one country, two systems” principle with which the People’s Republic of China had promised to govern Hong Kong.²
2. Since the beginning of 2020, the political crisis in Hong Kong has deepened further, highlighted by the arrest of 15 prodemocracy figures in April 2020 who are now facing criminal charges related to participation in peaceful protests in 2019.³ The ten-year criminal sentence announced on February 25, 2020 against a Hong Kong bookseller and Swedish citizen who was abducted while abroad and transported to mainland China contributes to the chilling of the media and freedom of expression. Then a controversial decision in late May 2020 by the National People’s Congress (NPC) authorized the NPC Standing Committee to draft national security legislation for Hong Kong now raises serious procedural, constitutional, and substantive concerns.
3. We note and welcome two actions by the UK government that put the NPC move in a larger context of world peace and security and provide concrete help to the Hong Kong people: UK joining the U.S. in successfully getting a discussion on Hong Kong into a UN Security Council meeting under AOB on May 29 (after efforts failed to insert the discussion into the formal agenda of the Security Council); and the UK government’s extending visa rights to 300,000 Hong Kong holders of current BNO passports, and a further 2.55 million others who held BNO passports that have expired. These actions have bolstered statements by the UK government and by the spokesperson for Prime Minister Boris Johnson, as well as the joint statement of parliamentarians around the world that Lord Patten has led.

¹ “Onslaught of “Rule of Law” with Chinese Characteristics on Hong Kong,” Human Rights in China (May 23, 2020), <https://www.hrichina.org/en/press-work/statement/onslaught-rule-law-chinese-characteristics-hong-kong>

² The Hong Kong SAR government’s attempt to introduce extradition legislation in early 2019 that would have exposed criminal suspects in Hong Kong to extradition to mainland China and a judicial system that lacks independence fueled the massive protest movement and expanded demands for democracy and accountability for the systematic use of excessive force by law enforcement and arbitrary arrests. The failure by the authorities to ensure that law enforcement actions complied with the Hong Kong Police Force guidelines and international standards also elicited strong statements of concern from the international community, including by UN human rights experts.

³ As of May 28, 2020, a total of 8,898 protesters have been arrested on allegations of unlawful assembly and other public order offenses, see <https://twitter.com/KongTsunGan/status/1259067496318951424>.

4. HRIC's submission to the Commission highlights the critical importance of maintaining the integrity of the "One Country, Two Systems" principle as key to the effective and meaningful implementation of the international obligations of the UK, and Central Chinese and Hong Kong SAR governments. We also flag concerns regarding the likely impact of a National Security Law (expected to be passed by the National People's Congress in next few months) on the "high degree of autonomy" promised Hong Kong as well as rights protected by international law, and Hong Kong's *Basic Law* and *Bill of Rights Ordinance*.⁴ Finally, we offer recommendations for the UK government that we hope will promote additional concrete and effective responses.

II. Challenges to the "One Country, Two Systems" Framework

5. In accordance with The *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* of 1984 (Sino-British Joint Declaration),⁵ China would resume the exercise of sovereignty over the Hong Kong Special Administrative Region (HKSAR) from July 1, 1997, but provided that the "previous capitalist system and way of life shall remain unchanged for 50 years" and that "the socialist system and policies" of China would not be practiced in HK. Administered "directly under the authority" of the Central People's Government of the People's Republic of China, the Joint Declaration states, the Hong Kong SAR shall enjoy a "high degree of autonomy."⁶
6. While the principle of "one country, two systems" is not explicitly mentioned in the Joint Declaration, it underpins the framework enshrined in Hong Kong's functional constitution, *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* (Basic Law).⁷ Article 3 of the *Basic Law* provides: "The Hong Kong Special Administrative Region will be vested with executive, legislative and independent judicial power, including that of final adjudication."⁸ However, as will be described below, there are several challenges threatening the "one Country, two Systems" framework: the erosion of Hong Kong's promised high degree of autonomy; the role and status of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG); and threats to the independence and role of the judiciary.

Erosion of high degree of autonomy

7. The Hong Kong SAR government's Fourth periodic report ICCPR (SAR ICCPR Report) to the UN Human Rights Committee asserts that since the establishment of the Hong Kong SAR, the

⁴ Cap 383, *Hong Kong's Bill of Rights Ordinance*, <https://www.elegislation.gov.hk/hk/cap383>.

⁵ *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*, <https://www.cmab.gov.hk/en/issues/jd2.htm>.

⁶ Article 2 (2), *Ibid*.

⁷ *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, effective July 1, 1997 <https://www.basiclaw.gov.hk/en/basiclawtext/index.html>.

⁸ Article 3, *Ibid*.

Central authorities “have been upholding Hong Kong’s high degree of autonomy, supporting the Government to act according to the law, and respecting Hong Kong’s judicial independence in accordance with the principle of ‘one country, two systems’ and the Basic Law.”⁹ However, actions since 2013 by the Central government authorities, with the cooperation or support of the Hong Kong SAR government, highlight official efforts to exert greater control over Hong Kong people’s fundamental rights and freedoms, in particular, freedom of opinion, expression, rights to participate, and an independent media.

8. Speaking on the 20th anniversary of the handover in 2017, Xi Jinping stated: “It is my hope that in the next five years, the HKSAR government will unite people of all sectors in Hong Kong to fully and faithfully implement the principle of ‘one country, two systems’, stay committed to the basis of ‘one country’, well leverage the benefits of ‘two systems’, and make solid efforts to ensure success of its various endeavours.” He continued, “First, it is imperative to have a correct understanding of the relationship between ‘one country’ and ‘two systems’. ‘One country’ is like the roots of a tree. For a tree to grow tall and luxuriant, its roots must run deep and strong. The concept of ‘one country, two systems’ was advanced, first and foremost, to realise and uphold national unity.”¹⁰ These statements are reframing the “one country, two systems” principle enshrined in the *Basic Law* to justify a de facto “one country, one system” model.

Role and Status of the Liaison Office of the Central People's Government in Hong Kong Special Administrative Region (LOCPG)

9. Another significant development contributing to undermining Hong Kong’s high degree of autonomy is the increasing assertion and expansion of influence in Hong Kong by the Liaison Office of the Central People's Government in Hong Kong Special Administrative Region (LOCPG), at the direction of the Hong Kong and Macau Affairs Office (HKMAO) of the PRC’s State Council. The *Basic Law* prohibits branches of the Central government and their representative offices in Hong Kong from interfering in the affairs “which the Hong Kong SAR administers on its own” (Art. 22).

⁹ Fourth periodic report submitted by Hong Kong, China under article 40 of the Covenant, due in 2018, United Nations Human Rights Committee, fourth review of Hong Kong under the *International Covenant on Civil and Political Rights*, CCPR/C/CHN-HKG/4 (February 14, 2020), paras. 4-6, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2fPPRiCAqhKb7yhsr2bAznTlrtkyo4FUNHETCR0%2bONq2tc0rHr5HeWTwCKr7veqP5BgZAAHQCP2rxUwNp7ykgF04umS%2fW%2bDrX2AZJkBJ4axLdF6qDBT53FEgDA2>.

¹⁰ "Full text of President Xi Jinping’s speech on ‘one country, two systems’ and how China rules Hong Kong," South China Morning Post, July 1, 2017, <https://www.scmp.com/news/hong-kong/politics/article/2100856/full-text-president-xi-jinpings-speech-one-country-two>.

10. On April 13, 2020, the HKMAO and LOCPG issued statements attacking opposition lawmakers for procedural delay in the House Committee of the Legislative Council (Legco)¹¹ and accusing Dennis Kwok, a Legco member, of abuse of power.”¹²
11. After pro-democracy lawmakers criticized the HKMAO and the LOCPG for violating Article 22 of the *Basic Law*,¹³ the LOCPG declared it and HKMAO are not bound by the Basic Law, and “have the power to represent the central government . . . [and] exercise supervisory power.”¹⁴ The Hong Kong SAR government then issued in succession three conflicting statements, on April 18-19, 2020, on the status of the LOCPG.¹⁵ In the final statement, it stated that the LOCPG is not bound by the *Basic Law*.¹⁶ On April 27, Secretary for Justice Theresa Cheng supported the Hong Kong SAR administration’s view by stating, “Article 22 of the Basic Law does not apply to the liaison office [LOCPG].”¹⁷
12. However, legal experts have challenged this position as contrary to logic and law. The Hong Kong Bar Association (HKBA) has challenged the Hong Kong SAR government’s position on the LOCPG in a statement on April 20, and has sought clarification of the status and functions of the LOCPG in two letters from the HKBA chair to the Secretary for Constitutional and Mainland Affairs on April 27 and May 15.¹⁸ In its April 20 statement, the HKBA pointed out that “there is no provision in the Basic Law which confers on the HKMAO and LOCPG the power of ‘supervision’ over affairs which the HKSAR administers on its own” and raised several issues regarding accountability and source of claimed authority to “supervise.”

¹¹ Statement by the spokesman for the Hong Kong and Macao Affairs Office of the State Council in response to reporters’ questions about the disorder in the Legislative Council of the Hong Kong SAR (April 13, 2020) (in Chinese), https://www.hmo.gov.cn/xwzx/xwfb/xwfb_child/202004/t20200413_21779.html.

¹² “Statement by the spokesman for the Hong Kong Liaison Office on the issue of the Legislative Council’s House Committee and in reprimand of some Legco members’ maliciously unfurling banners when taking oath” (April 13, 2020) (in Chinese), http://big5.locpg.gov.cn/jsdt/2020-04/13/c_1210556359.htm.

¹³ “Response of Legco member Dennis Kwok to the remarks of the HKMAO and LOCPG” (April 13, 2020) (in Chinese), <https://www.facebook.com/cpdenniskwok/posts/3497061880321656>; “Hong Kong democrats reject Beijing’s warning over legislative stalling tactics as ‘interference,’” *Hong Kong Free Press* (April 14, 2020), <https://hongkongfp.com/2020/04/14/hong-kong-democrats-reject-beijings-warning-over-legislative-stalling-tactics-as-interference/>.

¹⁴ “Statement by the LOCPG: The so-called ‘interference of the Central authorities in Hong Kong’s internal affairs’ is a deliberate misunderstanding of the Basic Law” (April 17, 2020) (in Chinese), http://www.locpg.gov.cn/jsdt/2020-04/17/c_1210563621.htm.

¹⁵ Statement 1: <http://archive.is/5KMcv>; Statement 2: <https://www.info.gov.hk/gia/general/202004/18/P2020041800802.htm>; Statement 3: <https://www.info.gov.hk/gia/general/202004/19/P2020041900045.htm>.

¹⁶ From Statement 3: “The Liaison Office of the Central People’s Government in the HKSAR (LOCPG) is an office set up in the HKSAR by the Central People’s Government, not ‘offices in the HKSAR set up by departments of the Central People’s Government’ as stated in Article 22(2) of the Basic Law.”

¹⁷ “Basic Law’s Article 22 ‘does not apply’ to Beijing’s liaison office, Hong Kong justice secretary says,” *South China Morning Post* (April 27, 2020), <https://www.scmp.com/news/hong-kong/politics/article/3081816/basic-laws-article-22-does-not-apply-beijings-liaison>.

¹⁸ Hong Kong Bar Association, April 20, 2020 statement: <https://www.hkba.org/sites/default/files/20200420%20-%20HKBA%27s%20Further%20Statement%20on%20Article%2022%20of%20the%20Basic%20Law%20%28English%29.pdf>;

April 27, 2020 letter: <https://www.hkba.org/sites/default/files/20200427-Letter%20to%20Secretary%20for%20Constitutional%20%26%20Mainland%20Affairs.pdf>;

May 15, 2020 letter: https://www.hkba.org/sites/default/files/20200515%20-%20Letter%20to%20Secretary%20for%20Constitutional%20and%20Mainland%20Affairs_0.pdf.

13. In his May 15 letter to the Secretary for Constitutional and Mainland Affairs, the HKBA chair also pointed to a set of amendments enacted by Hong Kong's Legislative Council in 2009 ("ALO 2009") to ensure that four ordinances were applicable to offices of the Central People's Government in Hong Kong, included the LOCPG as one of three such offices. The letter said, "If LOCPG is the CPG incarnated in the HKSAR, and not just one of its 'departments' and that makes all the difference, then Article 22 would have no application to it and thus making the ALO 2009 a statutory anatomy," a status that "cannot be squared with the [Hong Kong] Government's current view of the meaning of Article 22 and its scope and application."

Judicial independence

14. Article 85 of the *Basic Law* provides for independence of the judiciary: "The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions."¹⁹
15. However, high-level policy statements by the Central government assert positions that raise serious concerns about their compatibility with normative understanding of core values necessary to ensure an independent judiciary crucial to protection of rights. In spring 2013, shortly after Xi Jinping came to power, the General Office of Communist Party of China issued a communique to Party members that warned of seven political "perils." Among them are constitutional Democracy; universal values, civil society, and "the West's idea of journalism." The paragraph relating to judicial independence in what came to be known as "Document 9" states: "Western Constitutional Democracy has distinct political properties and aims. Among these are the separation of powers, the multi-party system, general elections, independent judiciaries"²⁰
16. In January 2017, Zhou Qiang, the president of the Supreme People's Court said the following: "We should resolutely resist erroneous influence from the West: 'constitutional democracy,' 'separation of powers' and 'independence of the judiciary We must make clear our stand and dare to show the sword."²¹ These pronouncements must not be dismissed as political rhetoric but as the authoritative statements of policy, they are intended to be. They contribute to exacerbating fundamental tensions for the "one country, two systems" principle.
17. While the high-level policy pronouncements may be putting the Hong Kong SAR government between a "rock and a hard place," this does not relieve the SAR government or the PRC government of its international treaty obligations. As the "one country, two systems" principle is increasingly undermined, this is the crux of the dilemma. As party to the 1984 Joint Declaration,

¹⁹ *The Basic Law*, https://www.basiclaw.gov.hk/en/basiclawtext/chapter_4.html.

²⁰ "Communiqué on the Current State of the Ideological Sphere: A Notice from the Central Committee of the Communist Party of China's General Office" English translation: <https://www.chinafile.com/document-9-chinafile-translation#start>

²¹ English media report: <https://www.nytimes.com/2017/01/18/world/asia/china-chief-justice-courts-zhou-qiang.html>

the UK has a special role and responsibility to ensure that the “one country, two systems” principle that formed the basis of ensuring Hong Kong’s autonomy and freedoms will be respected and implemented.

18. Furthermore, the Central government also has international obligations to respect rights protections guaranteed under the ICCPR, incorporated into Hong Kong’s *Bill of Rights Ordinance*. Although the PRC signed the ICCPR on October 5, 1998, it still has not ratified the treaty, despite repeated statements of its intention to do so.²² Nonetheless, as a signatory of the ICCPR, it is still obligated under international law to not take any actions that would defeat the objective and purpose of the treaty.²³

III. Impact of Anticipated National Security Law on Rule of Law and Restrictions on Peaceful Exercise of Rights

19. Hong Kong’s *Basic Law* Article 23 provides: “The Hong Kong Special Administrative Region **shall enact laws on its own** to prohibit any act of **treason, secession, sedition, subversion** against the Central People’s Government, **or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities** in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with **foreign political organizations or bodies**.”²⁴ (Emphasis added)
20. On May 28, 2020, the National People’s Congress approved the *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* (Decision).²⁵ 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 Hong Kong SAR’s own legislative process. The Decision passed with 2878 votes in favor, one against, and 6 abstentions.

²² In response to recommendations by UN member states, treaty bodies, and civil society groups, to ratify the ICCPR, including during all three of its UPRs, China has consistently responded that it will do so when the domestic conditions for its ratification are present. <https://www.upr-info.org/en/review/China>

²³ *Vienna Convention on the Law of Treaties*, Art. 18(a): Obligation not to defeat the object and Purpose of a treaty prior to its entry into force. A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) **it has signed the treaty**...until it shall have made its intention clear not to become a party to the treaty...(emphasis added).

²⁴ *The Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China*, adopted at the Third Session of the Seventh National People’s Congress (April 4, 1990), https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw_full_text_en.pdf.

²⁵ 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 jueding*, 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), available at http://www.xinhuanet.com/politics/2020-05/28/c_1126046490.htm.

There were two changes to the May 18 draft. The preamble was made longer, and under Article 6, "activities" was added to "conduct" to the scope of punishable actions.²⁶

21. The Decision highlighting an intensification of control exerted by the Central authorities over Hong Kong has been widely condemned by the international community.²⁷ This blatant move signals further acceleration of Beijing's efforts to dismantle the "one country, two systems" framework that was intended to protect the rule of law and fundamental rights and freedoms, and to ensure a high degree of autonomy for Hong Kong.
22. In a press conference on May 20, 2020, Hong Kong Chief Executive Carrie Lam, echoing the Central authorities' rationale and urgent necessity for a National Security Law, stated that the Hong Kong SAR government would fully cooperate with the NPCSC in the enactment of the legislation.²⁸ Fears or concerns expressed by the Hong Kong people of the impact on the legitimate peaceful exercise of rights have been brushed aside as unfounded and the product of "imagined fears."
23. The Decision sets out, in the preamble, the legislative aims of a national security law: to "safeguard national sovereignty, security, and development interests, uphold and improve the 'one country, two systems' system, preserve Hong Kong's long-term prosperity and stability, and safeguard the lawful rights and interests of Hong Kong residents." It explicitly references "illegal activities such as 'Hong Kong independence,' splitting the country, and violent terrorist activities have seriously endangered the sovereignty, unity, and territorial integrity of the country."
24. The Decision cites Articles 31 and 62 of the PRC Constitution as the basis of authority for the NPC's Decision. Article 31 empowers the NPC to prescribe by law the systems to be instituted in a special administrative region like Hong Kong. Article 62 allows the NPC to "oversee the implementation of the Constitution" and to exercise any unenumerated functions and powers that it thought it should exercise. However, constitutional law expert Professor Johannes Chan has argued that the PRC Constitutional provisions cited by the Central authorities do not empower the NPC to simply ignore the *Basic Law*. While the NPC can amend the *Basic Law*, it must do so according to procedures set out in the *Basic Law*, which it cannot disregard. Legal experts have

²⁶ NPC Observer, "2020 NPC Session: NPC's Decision on National Security in Hong Kong Explained (Updated)," May 28, 2020, <https://npcobserver.com/2020/05/22-npc-session-npcs-imminent-decision-on-national-security-in-hong-kong-explained/>

²⁷ See e.g. U.S. Department of State, Secretary of State press release, "PRC National People's Congress Proposal on Hong Kong National Security Legislation," May 27, 2020, <<https://hk.usconsulate.gov/n-2020052701/>> ; Governments of the United States of America, Australia, Canada, and the United Kingdom, "Joint Statement on Hong Kong," May 28, 2020, available at <<https://www.state.gov/joint-statement-on-hong-kong/>>; Agence France-Presse, "China slams 'senseless' US move at UN over Hong Kong," May 29, 2020, <<https://www.afp.com/en/news/15/china-slams-senseless-us-move-un-over-hong-kong-doc-1sg8a53>>; Human Rights In China, "Onslaught of 'Rule of Law' with Chinese Characteristics on Hong Kong," May 23, 2020, <<https://www.hrichina.org/en/press-work/statement/onslaught-rule-law-chinese-characteristics-hong-kong>>; Human Rights Watch, "Hong Kong: Beijing Threatens Draconian Security Law," May 22, 2020, <<https://www.hrw.org/news/2020/05/23/hong-kong-beijing-threatens-draconian-security-law>>.

²⁸ Hong Kong Chief Executive Carrie Lam meets the press (May 22, 2020), https://www.facebook.com/watch/live/?v=3065107380178000&ref=watch_permalink.

also pointed out that the Decision's goes beyond the scope of Article 23 of the *Basic Law* and could potentially target any foreign activity or group deemed to threaten national security under the Central government's all-encompassing definition of national security.²⁹

25. The next step will be for the NPCSC Legislative Affairs Commission to draft the new national security law in consultation with the NPCSC Hong Kong Basic Law Committee and the Hong Kong SAR government. The NPCSC will most likely meet in late June for its next regular session where the first out of possibly only two reviews can take place. As the NPCSC meets every two months, the bill can be approved at the earliest in late August. The new law then needs to be separately listed in Annex III of the *Basic Law*, which can be done at the same session.³⁰
26. International human rights bodies, including the UN Human Rights Committee,³¹ have expressed their concerns with existing security related laws and recommended that the legislation regarding offenses of treason and sedition and legislation foreseen under Article 23 of *Basic Law* are consistent with Covenant (para. 14). "A state of emergency, or any other security measures, should be guided by human rights principles and should not, in any circumstances, be an excuse to quash dissent." Even during the ongoing COVID-19 pandemic, international experts and UN human rights bodies have highlighted the importance of respect for human rights across the spectrum, including economic, social, and cultural rights, and civil and political rights, as fundamental to the success of public health responses and recovery from the pandemic.
27. In the face of the assertions by the Central authorities and the Hong Kong SAR government that Hong Kong faces serious threats of terrorism, succession, and foreign forces, in the absence of an official declaration of an emergency, any derogations must carefully be within the permissible categories set forth in ICCPR Article 4(1), which states: "In time of **public emergency** which threatens the life of the nation and the **existence of which is officially proclaimed**, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin." (Emphasis added)

IV. Recommendations and Concerns

²⁹ <https://www.bbc.com/news/world-asia-china-52765838>

³⁰ Ibid.

³¹ The Human Rights Committee, "Concluding observations on the third periodic report of Hong Kong, China, adopted by the Committee at its 107th session (11 – 28 March 2013), (April 29, 2013), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCHN-HKG%2fCO%2f3&Lang=en

28. The Commission's forthcoming 2020 report comes at a time of escalating social and political crisis in Hong Kong that seriously threaten rule of law and the peaceful exercise of rights protected under international, PRC, and Hong Kong law. Ongoing developments will undoubtedly be fast-moving and complex, including the anticipated promulgation of the National Security Law by the NPC. The second half of 2020 will witness several sensitive anniversaries, including the 31st anniversary of the June 4 1989 military crackdown, and the one-year anniversary of the mass anti-extradition and democracy protests on June 9 and 12, and July 1.
29. HRIC's recommendations below will hopefully contribute to promoting more effective engagement with the PRC to address the historic challenges facing Hong Kong and the international community at this critical turning point.

Maintaining the "One Country, Two Systems" Principle:

30. The UK government should continue its policy efforts to provide visa and BNO options for Hong Kong people who choose to leave Hong Kong, but the UK cannot simply abandon Hong Kong to authoritarian rule.
31. The UK must aggressively and strategically deploy the full range of diplomatic, legal, and policy tools in all bilateral and multilateral fora and engage diverse stakeholders to promote compliance by China with international obligations.

Some specific actions and concerns that the UK should consider include:

- Closely monitor developments related to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG), its role and limits on its authority to assert "supervision" power, and impact on the autonomy of the Hong Kong SAR government.
- Press for concrete legal and policy measures to protect the "one country, two systems" framework and ensure that Hong Kong people can "freely determine their political status and freely pursue their economic, social and cultural development" in accordance with the ICCPR Article 1.
- Leverage the upcoming Human Rights Council elections to bring attention to the expected candidacy bid by China and to highlight the serious challenge to the integrity of the international system of a state that ignores its treaty obligations and international standards. Irrespective of the projected election outcome, the UK, along with its allies must use the election as an important opportunity to send a principled message.

Impact of Anticipated National Security Law on Rule of Law and Restrictions on Peaceful exercise of Rights

32. Any proposed national security law must comply with applicable international standards, including the principles of legality, necessity, and proportionality that govern the permissibility of any reasonable restrictions on rights and the Hong Kong SAR's international obligations. The provisions of any security law must also adhere to international standards and norms on national security law, including the *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*.
33. The UK should urge the Hong Kong SAR government to adopt measures to promote *transparency and wide and diverse public consultation* during the next legislative stage (if it proceeds) of the Legislative Council's promulgation of the anticipated National Security Law.
34. The UK should monitor and address any serious threats posed by the creation and operation of *Central government national security entities* to be set up in the Hong Kong under the National Security Law. The Chief Executive has indicated that questions regarding where persons would be detained or tried under the anticipated National Security Law, were "details" that would be clarified. These procedural assurances must be elaborated in any final National Security draft and comply with full due process protections required under international law.
35. Specific issues that the UK must continue to monitor carefully include:
- Restriction by law the operations of security bodies given broad powers of investigation, arrest, and interrogation to ensure that fundamental rights are protected, and persons detained, investigated or tried are not subjected to a legal system lacking rule of law and an independent judiciary.
 - Clarification of the status and functions of these security entities and whether they will be subject to the Basic Law under Article 22 to avoid the expansion of mainland security practices and abuses into Hong Kong.
36. The UK government, especially as a co-signatory of the 1984 Joint Declaration, must not lose its political courage in the face of threats of retaliation or accusations of interference with China's sovereignty. In the absence of formal amendments or withdrawals in compliance with international law, the 1984 Joint Declaration remains an enforceable international treaty, one that a signatory party cannot unilaterally amend or declare that it is no longer in force.³² The UK must continue to speak out and adopt concrete actions to defend the rule of law in Hong Kong and the fundamental rights and freedoms of the Hong Kong people.

³² *Vienna Convention on the Law of Treaties*, Articles 39-41.