

# The Shrinking Safe Space for Humanitarian Aid Workers in Hong Kong

## Inquiry into Violations of Human Rights and Humanitarian Principles by the Hong Kong Police Force

August 2020



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The inquiry that led to the production and publication of this report was supported by The Whitehouse Consultancy Ltd ([www.whitehouseconsulting.co.uk](http://www.whitehouseconsulting.co.uk)) which was remunerated for that work by Fight for Freedom. Stand with Hong Kong. (<https://standwithhk.org>).

Further information about the All-Party Parliamentary Group on Hong Kong can be found in the official register of such groups (<https://publications.parliament.uk/pa/cm/cmallparty/200520/hong-kong.htm>).

**Photograph on the cover:**

A widely shared photo taken from social media of medical staff sitting on the ground, their hands bound behind their backs with zip-cords, caused outrage in Hong Kong.

# Executive Summary

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In March 2020, the All-Party Parliamentary Group (APPG) on Hong Kong launched an inquiry into possible human rights abuses on humanitarian aid workers in Hong Kong since the start of the 2019 protests. Since then, the new National Security Law has been imposed on Hong Kong by the Chinese Communist Party (CCP). This will have profound implications for the rule of law and future policing in Hong Kong and breaches both the Sino-British Joint Declaration and international law (see page 53). The independence of the Courts and integrity of the administration of justice will be deeply compromised and come to resemble the practices of the CCP's one-party-one-system approach to policing rather than the traditional model of policing by consent which has been a hallmark of Hong Kong's freedoms. That model of policing gave the city a police force which was respected and admired throughout the region – and never feared.

The new law would also now make it a criminal offence for our witnesses to give evidence to an inquiry such as this. We were struck by the words of a courageous young doctor who told us that “in the future they will come crashing through my door, arrest me and I will just disappear.” Against this backdrop the APPG invited individuals and organisations from Hong Kong to submit first-hand evidence of the treatment of humanitarian aid workers that fell short of international standards. This exercise aimed to collect eye-witness accounts that would help to map the treatment of humanitarian aid workers in Hong Kong and inform the necessary responses. The APPG further held oral evidence hearings in May with senior medical professionals, first-aiders, an academic organisation and a journalist to discuss some of the evidence gathered. The APPG also engaged experts to curate, analyse, and evaluate the evidence of the inquiry.

The central focus of the inquiry was to determine whether the Hong Kong Police Force (HKPF), in their treatment of humanitarian aid workers, has violated international human rights law and the spirit of humanitarian law. In scrutinising this question, members of the inquiry were to pay particular regard to the actions of the HKPF in relation to 1) international humanitarian law and principles, 2) international human rights law, and 3) the Sino-British Joint Declaration.

## Having reviewed the evidence, the APPG on Hong Kong considers that:

- Humanitarian aid workers have been subjected to a variety of treatment that fell short of international humanitarian law and principles, international human rights and the Sino-British Joint Declaration. Treatment aid workers were subjected to included intimidation, harassments, threats, physical violence, and arrests.
- Among humanitarian aid workers, first-aiders appear to have been the main group subjected to such treatment. However, doctors and nurses also received treatment that fell short of international human rights law.
- This treatment has had a profound effect on the humanitarian aid workers who have suffered physical and psychological injuries. This treatment has affected their ability to provide medical assistance to injured protesters.
- This inquiry found no evidence to suggest that the humanitarian aid workers were involved in the hostilities to justify the HKPF stripping them of the protections otherwise available to humanitarian aid workers.

- The HKPF's treatment of humanitarian aid workers and their interference within hospitals have resulted in injured protesters not receiving the required medical care in time or at all. These actions may also have affected the medical care of the population in general, as a result of the hospitals' independence and confidentiality being diminished by the ever-growing interference from the HKPF.

In light of the above, the APPG on Hong Kong recommends:

- The UK to lead the efforts to establish an independent mechanism to investigate the situation in Hong Kong, for example:
  - At the United Nations (UN) Human Rights Council (or the UN General Assembly) to establish an investigative mechanism to consider the situation.
  - Work with the International Bar Association to establish a comprehensive and independent inquiry.
- The UK to engage in a dialogue with the city's authorities to assist the UN inquiries on the issue.
- The UK should urgently impose Magnitsky-style sanctions on those responsible for permitting the excessive police violence at high level in the administration, including but not limited to Chief Executive Carrie Lam and the Commissioner of Police.
- The UK should ensure that its bold and encouraging British National (Overseas) citizenship immigration policies, designed to protect Hongkongers and adhere to the UK's responsibilities under the Joint Declaration, are not applicable to those who have encouraged/endorsed the National Security Law, or who have encouraged, supported or condoned police violence.
- The UK to provide capacity-building assistance to the Hong Kong authorities to:
  - Ensure that the independent mechanism for lodging complaints is comprehensive and able to conduct its work independently and effectively.
  - Strengthen the human rights training to all police officers responding to protests.
- The UK to work with Hong Kong authorities to strengthen the human rights protections in the city, as stipulated in the Sino-British Joint Declaration.
- The UK to explore whether the targeted humanitarian aid workers fall within the purview of the Refugee Convention and consider how they could be best assisted.

# 執行摘要

2020年3月，英國國會「跨黨派國會香港小組」(APPG)向自2019年香港示威中的人道救援工作者懷疑遭受到人權侵害的情況展開調查。其後，中國共產黨(中共)將新成立的維護國家安全法(國安法)強行於香港實施。此舉將對香港的法治和日後執法構成徹底的影響，並破壞中英聯合聲明及國際法(見53頁)。香港法院的獨立性及司法機構的誠信將被嚴重損害，進一步以類近中共一黨一制的執法手段取代良久以來印証香港自由地位的民許警治模式。此模式曾成就了一隊被受尊重及愛戴，而非懼怕的亞洲最佳警隊。

國安法下，我們的證人於這類調查中作證便已觸犯刑事罪行。我們無一不被一位年輕醫生的勇氣深深觸動，他說：「不久將來他們便會破門而入把我拘捕，而我亦將人間蒸發。」在這背景下，APPG邀請香港的個人及團體提交有關人道救援工作者遭受遠差於國際標準對待的第一手資料。此舉在於收集目擊者證供以了解人道救援工作者的經歷及組織必要的回應。APPG與資深醫護人員、急救員、一所教育機構及傳媒工作者於5月舉行口供聽證會討論收集到的證據。此外，APPG亦有邀請專家策展、分析及評估是次調查所得的證據。

是次調查目標在於釐定香港警隊於人道救援工作者的對待中有否違反國際人權法及人道法精神，調查成員於查察此問題時特別關注到香港警隊的行為有否與以下法案有所衝突：1) 國際人道法及原則，2) 國際人權法，3) 中英聯合聲明。

考量證據後，英國國會跨黨派國會香港小組APPG認為：

- 人道救援工作者遭受一連串遠差於國際人道法及原則、國際人權法及中英聯合聲明裡所能接受的對待。工作者受到恐嚇、騷擾、威脅、肢體暴力及被拘捕。
- 人道救援工作者當中以急救員成為最主要的受害群組。醫生和護士亦均受到人權侵害。
- 人權侵害對人道救援工作者帶來深遠的身心傷害，並影響他們為受傷示威者提供醫療援助的能力。
- 香港警隊在沒有証據顯示人道救援工作者曾參與任何敵意行為下剝削工作者應受到的保護。
- 香港警隊對人道救援工作者的人權侵犯及醫院的干預令受傷示威者不能接受及時和適當的治療。醫院的獨立性和保密制度被香港警隊日益嚴重的干預而削弱，有可能影響市民本應享有的醫療服務。

有鑑於此，英國國會跨黨派國會香港小組APPG建議：

- 由英國領導建立一個獨立機制以深入調查香港的狀況，例如：
  - 1) 於聯合國人權理事會 (或聯合國大會) 建立深入調查機制以研究香港的狀況。如無法實行；
  - 2) 與國際律師協會合作建立一個全面並獨立的調查
- 英國與香港政府部門及有關機構進行對話以協助聯合國對此問題的調查。
- 英國該針對容許警暴的高級官員，包括但不限於行政長官林鄭月娥及警務處處長，緊急實施馬格尼茨基形式的制裁。
- 英國應防止曾擁護國安法及助長警暴的人士受惠於英國因給予香港人保護及履行中英聯合聲明裡英國應負的責任而制定的英國國民(海外)公民特別移民政策。
- 英國協助提升香港政府部門及有關機構的能力於：
  - 1) 確保獨立投訴機制的全面性並能夠單獨有效地展開工作
  - 2) 加強處理示威運動警員的人權培訓
- 英國根據中英聯合聲明規定與香港政府部門及有關機構合作，加強香港的人權保障。
- 英國探討曾受迫害的人道救援工作者是否符合難民公約的庇護範圍並研究最佳的協助方案。

# About the APPG

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The APPG on Hong Kong is a cross-party parliamentary group that was first formed in November 2019 and re-launched in January 2020 after the newly elected Parliament resumed. The APPG on Hong Kong was established in response to the spike in the acute political and social crisis in Hong Kong, which has unfolded between the HKPF and civilians. Its purpose is ‘to promote democracy and the rule of law, defend human rights in Hong Kong, share information about Hong Kong, and to nurture relations between the United Kingdom and the people of Hong Kong’.

## The officers of the APPG on Hong Kong are:

Co-Chair: Baroness Bennett of Manor Castle (Green Party)\*

Co-Chair: Alistair Carmichael MP (Liberal Democrat)\*

Vice-Chair: Lord Alton of Liverpool (Crossbench)\*

Vice-Chair: Andrew Bowie MP (Conservative)

Vice-Chair: Sarah Champion MP (Labour)\*

Vice-Chair: Geraint Davies MP (Labour (Co-op))

Vice-Chair: Steve Double MP (Conservative)

Vice-Chair: Lord Falconer of Thoroton (Labour)

Vice-Chair: Dame Cheryl Gillan MP (Conservative)

Vice-Chair: Mark Pritchard MP (Conservative)

Vice-Chair: Bob Seely MP (Conservative)

Vice-Chair: Lord Shinkwin (Conservative)\*

Vice-Chair: Andrew Rosindell MP (Conservative)

\*Participated in oral evidence sessions.

# Acknowledgements

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The APPG on Hong Kong would like to recognise the following organisations and individuals for their assistance in conducting the inquiry and producing the report: members of the APPG on Hong Kong who provided their time and expertise during oral hearings and producing the report, the APPG secretariat provided by The Whitehouse Consultancy Ltd ([www.whitehouseconsulting.co.uk](http://www.whitehouseconsulting.co.uk)), the inquiry’s translator, whose identity will remain anonymous for their safety apart from their initial, M, and Ewelina Ochab for her assistance with preparing the report.

We would also like to recognise the contribution made by over 1,000 Hongkongers and civil society organisations, who submitted evidence to the APPG on Hong Kong, following the launch of the inquiry in March 2020.

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Baroness Bennett of Manor Castle

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# Foreword by Alistair Carmichael MP and Baroness Bennett of Manor Castle

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The United Kingdom has a unique legal, moral and historical duty towards the people of Hong Kong. When the UK handed Hong Kong back to China in 1997, we also handed over the people of Hong Kong. We expected China to honour its word and legal duty to ensure those people were able to develop democratic structures and systems. We also expected that Hongkongers would be protected by the international principles of respect for human rights, and that Hongkongers would be both free and free from harm.

The evidence outlined in this report shows that the Hong Kong administration, under the direction of Beijing, has failed to meet that standard. As the only other party to the legally binding agreement where the freedom of Hongkongers was enshrined, the Sino-British Joint Declaration, it is Britain's responsibility to ensure that China upholds its obligations. Part of that duty is making sure that the forces of law and order in the city uphold the law.

Our concerns for the rights, freedoms and welfare of Hongkongers are what prompted us to commission this inquiry. The Sino British Joint Declaration guarantees Hongkongers the right to demonstrate. To be able to do this freely and without fear, they must be able to assemble to protest safely and that means having access to humanitarian workers such as first-aiders and human rights observers. That also means allowing journalists to operate freely, without harassment as they go about their roles, which include monitoring the behaviour of police and other officials at demonstrations, including towards medical professionals and first aiders.

Article 11 of the Geneva Accords (Protocol II) on the protection of medical units and transports states that "Medical units and transports must at all times: 1) be respected, 2) be protected, 3) not be the object of attack." If Hong Kong were a warzone, the shocking practices that are detailed within this report would likely fall short of the Geneva Accords. The fact that Hong Kong is not a warzone only highlights how far short those practices were.

Humanitarian workers reserve a special place in international agreements for this very reason. The subject of this report is whether or not those international agreements have been breached by the actions of the HKPF. Based on the evidence we have read and heard, it is clear that the HKPF has fallen significantly short of upholding those agreements and of discharging its duty as a guardian of the law.

It is important that we look closely at these issues now. Now that China's National Security Law has been imposed on Hong Kong, the HKPF will have ample excuses to arrest and detain (and even deport) any pro-democracy citizen they so choose. This report shows that there are many occasions where the HKPF failed to distinguish between those protesting and those ensuring their safety and, in both cases, failed in its duty to protect.

The aim of this report is to support our duty to protect Hong Kong’s way of life and the democratic principles that underpin this unique city. Having received over 1,000 pieces of written evidence and heard many first-hand experiences which support each other, this APPG on Hong Kong encourages our government to seek an independent review of the actions of the HKPF during the protests, particularly the treatment of humanitarian workers. Light needs to be shone on the decision-making that led a formerly highly respected police force to attack and detain those providing medical assistance to those in need. Without this light, further breaches can and will happen, particularly as new and more authoritarian offences are added to the state’s totalitarian arsenal.

We would like sincerely to thank those who gave evidence to this inquiry. This required bravery most of us who have never lived in fear of our governments could never understand. Nearly 2000 years ago, Juvenal asked “who watches the watchmen?” The answer is the brave people whose testimonies fill this report.



**Baroness Bennett of Manor Castle**  
**Co-Chair, All-Party Parliamentary Group on Hong Kong**



**Alistair Carmichael MP**  
**Co-Chair, All-Party Parliamentary Group on Hong Kong**

# 1. Introduction

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In early 2020, the APPG on Hong Kong conducted an inquiry into possible human rights abuses against humanitarian aid workers in Hong Kong since the start of the 2019 protests. The APPG invited individuals and organisations from Hong Kong and elsewhere to submit first-hand evidence on the treatment of humanitarian aid workers that fell short of international standards. This exercise aimed to collect first-hand accounts that would help to map the treatment of humanitarian aid workers in Hong Kong and inform the necessary responses. The inquiry received close to a thousand responses from individuals and organisations from Hong Kong. The APPG held further oral hearings with senior medical professionals, first aiders, journalists and a former member of the Hong Kong Police Force (HKPF) to discuss some of the evidence gathered.

The central focus of the inquiry was to question whether the HKPF, in its treatment of humanitarian aid workers, has violated international human rights law and the spirit of humanitarian law. In scrutinising this question, members of the inquiry paid particular regard to the actions of the HKPF in relation to 1) international humanitarian law and principles, 2) international human rights law, and 3) the Sino-British Joint Declaration.

This report engages with the evidence gathered, compares it to international human rights and humanitarian law and proposes what the UK should do to ensure that the issue is considered further.

- Section 1** This section incorporates background information on the situation of humanitarian aid workers that has led to this inquiry, as reported by media outlets and international bodies.
- Section 2** This section explains the methodology used for the purposes of the inquiry, the scope of the inquiry and the process used to gather evidence.
- Section 3** Here, the relevant international standards for the treatment of humanitarian workers are identified and the evidence obtained by the APPG on Hong Kong is engaged with. It is also considered whether the treatment of humanitarian workers violated international standards. The section analyses the possible violations of international humanitarian principles and law (section 3.1.), international human rights laws (section 3.2.), and the Sino-British Joint Declaration (section 3.3.). This also includes some comments on the evidence falling outside of the scope of the inquiry.
- Section 4** The APPG's inquiry conclusions are set out.
- Section 5** Recommendations are provided on the next steps to be taken.

# 1.1. Background

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All over the world, humanitarian aid workers put their lives and safety at risk to help those in need of urgent assistance. This is no different in cases of international or domestic conflicts, human-made or natural disasters and emergencies. Humanitarian aid workers risk their lives and safety because of the overall conditions that necessitate their involvement. However, this involvement often places a target on their backs. Because of that target, humanitarian aid workers benefit from unique protections under international humanitarian law.

The ongoing protests in Hong Kong are a humanitarian crisis that requires assistance from humanitarian aid workers. The 2019 protests in Hong Kong were sparked by a proposed Extradition Bill that would have enabled China to extradite individuals from Hong Kong and try them in mainland China. Many expressed concerns that if the bill were to become law, it would have given China additional powers over Hong Kong. In light of the protests, the Extradition Bill's legislative process was suspended in mid-June 2019. Nonetheless, the protests continued with calls to officially withdraw the bill. Ultimately, in September 2019, the Chief Executive of Hong Kong, Carrie Lam, announced that her government would formally withdraw the bill.

The protests were followed by reports that the HKPF had been resorting to excessive measures to curb protesters. The reports were serious enough to catch the attention of the United Nations. Among others, in August 2019, Rupert Colville, spokesperson for the UN High Commissioner for Human Rights, issued a statement to confirm that:

The UN Human Rights Office has reviewed credible evidence of law enforcement officials employing less-lethal weapons in ways that are prohibited by international norms and standards. For example, officials can be seen firing tear gas canisters into crowded, enclosed areas and directly at individual protesters on multiple occasions, creating a considerable risk of death or serious injury.<sup>1</sup>

He further added:

The Office would urge the Hong Kong Special Administrative Region (SAR) authorities to investigate these incidents immediately, to ensure security personnel comply with the rules of engagement, and where necessary, amend the rules of engagement for law enforcement officials in response to protests where these may not conform with international standards.

The Office urges the Hong Kong SAR authorities to act with restraint, to ensure that the right of those who are expressing their views peacefully are respected and protected, while ensuring that the response by law enforcement officials to any violence that may take place is proportionate and in conformity with international standards on the use of force, including the principles of necessity and proportionality.<sup>2</sup>

This was followed by reports of mistreatment of humanitarian aid workers. For example, in September 2019, the British Medical Journal published an article by two medical professionals, Yam-Hong Wong, a cardiologist, and Chung-Yee, a geriatrician, on excessive and abusive use of tear gas by police during protests.<sup>3</sup> The report referred to several incidents of humanitarian aid workers being attacked, including attacks and raids on first-aid stations<sup>4</sup>, tear gas canisters

being fired into first-aid stations<sup>5</sup>, harassment, attacks and arrests of aid-workers by the HKPF.<sup>6</sup> Other cited cases included paramedics from the Fire Services Department being denied access to injured persons.<sup>7</sup> In October 2019, a Change.org petition was launched to lobby the Permanent Court of Arbitration into investigating unlawful force against citizens since 9 June 2019 by Hong Kong Police. At the time of drafting the report (July 2020), the petition has gained over 760,000 signatures.<sup>8</sup> The petition contains several allegations, including indiscriminate attacks and arrests, that ‘Hong Kong Police shot and attacked protesters, reporters and volunteer medical crews. Reporters, first-aiders are routinely roughed up, humiliated and sometimes arrested by the police.’<sup>9</sup>

In November 2019, [the Telegraph](#) reported that emergency workers were being detained and prevented from treating injured protesters at the Polytechnic University.<sup>10</sup> Reportedly, in that one instance, at least 16 members of medical staff, clearly identified as doctors and nurses, were detained. The article also identified that medical staff providing medical care to protesters have been subjected to threats.

Furthermore, 813 parliamentarians and policymakers from 39 countries issued a bold and critical statement following the National People’s Congress of China’s first backing of the National Security Law on 28th May 2020. The joint statement argued that the law, which has since been imposed on Hong Kong, is a flagrant breach of the Sino-British Joint Declaration.<sup>12</sup> The allegations, detailed above, required further attention as such attacks against humanitarian aid workers, if proven, are 1) against the established international human rights law and humanitarian law and norms and 2) violate the rights of the protesters for access to medical assistance. Despite such serious allegations, no Hong Kong-based independent inquiry into the concerns has been initiated. Similarly, some other attempts at establishing a dialogue with the police have failed. For example, as Dr. Darren Mann, medical professional based in Hong Kong, indicated:



I have called openly for a dialogue, for example, with the police commissioner to have an opportunity to discuss with him ways that we could actually provide for a protocol for cooperative working between Hong Kong Police and volunteer medical groups to ensure, for example, that the symbols of humanitarian protection are respected and for the police to find a way to honour their obligation to actually assist with the medical care of the injured to protest and actually aid medical personnel in treating injured parties. But regrettably, my invitations to have such a dialogue were never answered. The only real communication I’ve had from the Hong Kong government has been their written replies and a correspondence to the Lancet medical journal, in which regrettably they sought to justify their actions on the basis that they thought that medical volunteers were actually protesters who were masquerading in a medical role, which I don’t think anybody has found to be credible. <sup>13</sup>

As time passed by, it became clear that no such inquiry will be established in international or regional forums. This is why the APPG on Hong Kong undertook the inquiry to fill the gaps left by international and regional mechanisms unable or unwilling to investigate the allegations. Nonetheless, the APPG on Hong Kong recognises its limitations, in both resources and position, compared to international bodies when conducting an inquiry of this sort.

After the launch of the inquiry, further information on the situation of humanitarian aid workers in Hong Kong came to light. As a result, in February 2020, several UN special mandates holders, including, Dainius Puras, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Clement Nyaletsossi Voule, the Special Rapporteur on the rights to freedom of peaceful assembly and association, Joseph Cannataci, the Special Rapporteur on the right to privacy, and Leigh Toomey, the Vice-Chair of the Working Group on Arbitrary Detention, have written to the Chinese authorities concerning the ‘harassment, intimidation and arrest of healthcare workers including first-aiders; restrictions imposed on impartial healthcare, as well as the misuse of healthcare transport, facilities, and confidential information’, as occurred in the context of the protests in Hong Kong in June 2019.<sup>14</sup> The UN special mandate holders cited the evidence received alleging that healthcare workers (including doctors, nurses, allied health professionals) who volunteered to provide emergency medical aid in situations where access to treatment and/or transport are restricted were subjected to harassment, intimidation and arrests for providing impartial healthcare.<sup>15</sup> All these allegations are yet to be proven by a competent and independent body.

The Chinese authorities responded on 28 May 2020, rebutting the allegations.<sup>16</sup> For example, in response to the allegation that ‘in August 2019, a female paramedic was hit in the right eye by a pellet round allegedly shot by a police officer during a demonstration in the Tsim Sha Tsui area of the city’, Chinese authorities claimed that ‘there was no information indicating that the female was a paramedic, nor was she wearing any vest or clothing at the material time indicating such.’<sup>17</sup> This raises the question whether the authorities do not have the information or whether indeed the woman was not a paramedic. Ultimately, if the authorities were sure that the woman was not a paramedic, they would have raised it in their response. Furthermore, even if the woman was not wearing a paramedic or first-aider vest and was not identifiable by the HKPF as a medical worker, using excessive force and hitting her in the eye with a pellet round is not a proportionate display of force in any circumstance. The case requires further investigation and consideration by an independent arbiter.

In response to the allegation that, ‘in August 2019, a first-aider was arrested in Kwun Tong station solely for being in the possession of three pairs of scissors and saline water for his health duties’, Chinese authorities claim that ‘in the evening of 31 August 2019, rioters gathered at the Kwun Tong metro station and criminally damaged the facilities thereat. Police officers intercepted the rioters, including the subject male, inside the station. The male reported to be a technician and was not wearing any clothing showing that he was a first-aider or medical officer while being intercepted. Upon search, one rucksack containing one reflective vest with “Red Cross”, one armband with “Red Cross”, three pairs of scissors (13-16 cm), one respirator, one pair of goggles, one helmet, one pair of surgical gloves, two black masks, one bottle of saline, one bottle of alcohol, were found on the male. The male only stated, during an informal enquiry, that he has obtained first aid certificate from Red Cross.’<sup>18</sup> The response does not clarify the reason for this arrest, especially as the first aid certificate from the Red Cross is a recognised first-aider certification and should have been accepted by the HKPF as a valid qualification. Again, the case requires further consideration by an independent arbiter to clarify the circumstances of the arrest and why the HKPF arrested the man despite the fact that they knew, or should have known, that he was a first-aider.

The letter further responded to the allegation that ‘in November 2019, at least 16 healthcare workers who were providing medical aid during protests at the Hong Kong Polytechnic University were detained by the police and handcuffed with zip-cords from behind... Another doctor was reportedly arrested the next day during a police assault on the campus while he was actively providing medical care to a casualty. These healthcare workers were detained for at least 24 hours and some for up to 30 hours reportedly with no access to a lawyer.’ The letter comments upon the situation at the university, describing the hostilities. It further claims that ‘on the evening of 17 November 2019, an arrest operation commenced. It has been a common tactic of rioters to disguise themselves as, among others, first-aiders, to escape detention and arrest. Owing to the large numbers leaving the campus and the ongoing chaotic situation, police had to detain people claiming to be first-aid workers and media representatives to confirm their identities and credentials. Those who could provide their bona fides were released. Those who could not, were arrested. In the incident, a total of 810 persons were arrested and 310 persons under the age of 18 were recorded. Those arrested included 12 people self-claimed to be first-aid workers who did not have first-aid qualifications and did not work for any medical institution.’<sup>19</sup>

Despite claiming that it has been a common tactic of rioters to disguise themselves as, among others, first-aiders, to escape detention and arrest, the response does not provide any evidence to support this theory. Furthermore, the response does not clarify what the qualifications of the first-aiders were. Lastly, the letter erroneously suggests that the first-aiders were required to work for a medical institution. As it will be shown later in this report, many of the humanitarian aid workers had ID cards from their institutions, and hence, their identity as humanitarian aid workers could have been quickly and easily verified. However, as it is clear from the evidence before the inquiry members, many humanitarian aid workers still have the threat of legal action hung over them even now, several months after the events (and despite the fact that their identity as humanitarian aid workers should have been verified by now).

The letter from the Chinese authorities attempts to address other allegations but fails to provide a clear response that would effectively rebut the allegations. The lack of clarity and evidence in support raises the need to ensure that the cases are investigated and considered by an independent arbiter. Considering the response, it would be unreasonable to conclude that the issue will be resolved.

The interest from the UN special mandate holders does not invalidate the APPG inquiry. Indeed, the evidence gathered by the inquiry may assist UN inquires. Furthermore, at this early stage of the UN engagements, it is not clear whether the initial communications will result in formal investigations, for example, by way of a fact-finding mission or commission of inquiry.

On 1st July 2020, Beijing implemented a new NSL, an unprecedented departure from Hong Kong’s common law, which created four offences: secession, subversion, terrorism and collusion with foreign powers or organisations to endanger national security. These crimes, though vaguely defined, carry heavy sentences with a range from three years to life imprisonment. The NSL has an alarmingly longreach jurisdiction, which criminalises even activities conducted wholly outside of Hong Kong by non-Hong Kong permanent residents.

This new law gives the Chief Executive power to appoint judges and remove judges, which fundamentally contradicts judicial independence. It removes basic rights that are cornerstones of the rule of law in Hong Kong: the right to jury, the presumption of bail and the right to silence.

The NSL has replaced Hong Kong's mini-constitution, the Basic Law, as the supreme legal text. Its implementation has already had chilling effects on Hong Kong's civil society. On 30th June 2020 alone, multiple activist groups had disbanded including Joshua Wong's Demosisto and high profile activists including Nathan Law have since fled the city. Many have been arrested, including one man simply for standing beside a [pro-independence flag](#) and [a football fan for chanting "long live Liverpool"](#).

**This legal development in Hong Kong only heightens the importance of this inquiry and the urgency with which the government should act to support Hongkongers, now in more danger than ever before.**

In response to the NSL, Prime Minister Boris Johnson announced in the Commons: "We made clear that if China continued down this path we would introduce a new route for those with British National (Overseas) (BN(O)) status to enter the UK, granting them limited leave to remain with the ability to live and work in the UK and thereafter to apply for citizenship. And that is precisely what we will do now." The Prime Minister then unveiled an [unprecedented immigration policy](#) which gave 350,000 BN(O) passport holders, and 2.6 million others eligible, a "route" to UK citizenship.

Furthermore, On 7th July, the UK government announced its first sanctions under the new 'Magnitsky'-style sanctions regime, which has been designed to target those who have been involved in some of the gravest human rights violations and abuses around the world. 49 individuals were named on this list, including 25 Russian nationals involved in the mistreatment and death of auditor Sergei Magnitsky and 20 Saudi nationals involved in the death of journalist Jamal Khashoggi. Many campaigners have argued that such sanctions should also be placed on senior officials responsible for grave human rights violations in Hong Kong.

Transparency and accountability is an ongoing issue across Hong Kong. It is striking that medical and humanitarian workers face harassment, intimidation and are often prosecuted criminally, despite the international humanitarian laws that exist to protect them. If medical and humanitarian workers are treated this way despite such laws, it is harrowing to consider how everyday Hong Kong citizens are treated particularly after the imposition of the NSL.

## 1.2. Volunteers Providing Medical Assistance to Protesters

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The report considers the situation of humanitarian aid workers, namely, doctors, nurses, and individuals with first-aid qualifications, who volunteered to respond to the demand for medical assistance and first-aid during the protests. Groups of volunteers have been self-organising and providing medical assistance from the beginning of the protests in June 2019.<sup>20</sup> According to Dr Mann, 'Many have previous experience of co-working with other humanitarian organisations including Red Cross and Médecins Sans Frontiers.'<sup>21</sup>

The medical profession is a regulated profession. The qualification requirements of doctors and nurses are prescribed by the relevant regulating bodies. First-aiders are not regulated. According to the HKSAR Government website, the HKSAR Government recognises several first aid certificates, including the Hong Kong St. John Ambulance, the Hong Kong Red Cross, the Occupational Safety and Health Council and the Auxiliary Medical Service.<sup>22</sup> For example, the first-aid training provided by the Hong Kong Red Cross consists of 30 hours of knowledge and skills courses and 3 hours of exams.<sup>23</sup> Such certificates are usually valid for a few years. First-aiders are not required to be associated with any medical institution.

As Dr. Mann emphasised:



Many of us have been involved in providing medical care during the running street protests, particularly when they were an extension of large gatherings that had initially been peaceful. But regrettably, actions by the police that inflame tensions or provoked hostility then resulted sadly, in a small number of protests becoming violent. And those dates, although they are recorded, essentially occurred on an almost weekly basis over the course of the past year. **I would say that most of the medical care on those occasions was actually provided by civics, first-aiders, individuals with first aid experience, who were at the sites of protests and were able to deliver care where it was needed.** And those of us with hospital-based specialties, we were held more to the rear to give advice and support and direction.

‘But on two important occasions, the protests became localised at university campuses at the Chinese University of Hong Kong, and then a couple of weeks later at the Polytechnic University, and those protests and the violence that attended them lasted for several days in a row. The dates are well recorded in November, and those of us that were there were present for several days in a row and our presence was a matter of public record. Together, I should add, medical workers are not just volunteer groups drawn from the public, rather we also co-work with NGO humanitarian groups including the Red Cross. [...] Many of our friends, of course, are in the medical professional sector and our motivation is to act in a humanitarian capacity. **We were stimulated by calls from the parents of young people who were injured at these protests, who were receiving phone calls and text messages from their children to say they were caught up in a violent protest,** they had attended with peaceful intent simply to demonstrate their concerns for restriction of freedoms and civil liberties in Hong Kong. And some of them have been injured or victims of... rubber bullets or tear gas or water cannon with noxious fluids. In these protests, the numbers were so huge, roads were blocked, ambulances could not get through. Treatment and extraction of the injured was not happening on the scale that was required. And so, a civic mobilization was commenced, not in any ordered way, but simply by a cascade of messages and appeals from concerned parents. **How could any medical professional in good conscience not respond to that.**’<sup>24</sup>

## 2. Methodology

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The following section outlines the remit, justification and timeline for the inquiry. It deals further with the evidence collection process and security of the data obtained.

### 2.1. Timeline

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- 9 March 2020:** The APPG on Hong Kong launches the inquiry.
- 9 March 2020:** The public call for evidence is published on the APPG website opening the process of evidence gathering.
- 24 March 2020:** Deadline for evidence extended to reflect difficulties caused by coronavirus.
- 20 April 2020:** The public call for evidence closes.
- 27 May 2020:** The oral hearings commence.
- 5 June 2020:** The oral hearings conclude.
- August 2020:** The Report is published.
- Follow up action:
- August 2020:** The Report is sent to the UN Human Rights Council and several UN special mandate holders, including the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the rights to freedom of peaceful assembly and association, the Special Rapporteur on the right to privacy, and the Working Group on Arbitrary Detention. This action will be taken to help support the UN in any future inquiries it undergoes in the region and indeed, the evidence gathered by the inquiry may be of future help to such inquiries.

## 2.2. Scope

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In January 2020, the APPG on Hong Kong decided to undertake a full international inquiry into the possible human rights abuses of humanitarian aid workers in Hong Kong since the start of the 2019 protests. It invited individuals and organisations from Hong Kong to submit first-hand evidence to the inquiry to shed light on the situation for humanitarian aid workers. The APPG further conducted several oral hearings to explore and test the evidence gathered from the public call for submissions.

The central focus of the inquiry was to engage with the question of whether the HKPF, in their treatment of humanitarian aid workers, have violated international human rights and humanitarian law. In scrutinising this question, members of the inquiry were to pay regard to the actions of the HKPF concerning 1) international humanitarian law and principles, 2) international human rights law, and 3) the Sino-British Joint Declaration.

While the focus of the inquiry is the targeting of humanitarian aid workers, namely, for providing medical care to the protesters, some reports suggests that protesters (or even people who are not parts of the protests) are being targeted whether or not they are involved in violent protests.

### *Public Call for Evidence*

The public call for evidence was open to anyone with relevant information about the treatment of humanitarian aid workers. The public call was published on the APPG website and was open from 9 March until 21 April 2020. The questions are available in Appendix A. Close to a thousand individuals and/or organizations have responded to the public call for evidence. The inquiry team reviewed the responses to identify the evidence that falls within the remit of the inquiry and those that fall outside.

Considering the resource limitations of the APPG, it is clear that the collected evidence may be only a small sample of the data yet to be recorded and analysed. As will be discussed, a full and comprehensive inquiry into the issue may need to be conducted by, for example, a UN body specifically established and designated to engage with the issue (with adequate financial and human resources).

While the inquiry remit was clear, the inquiry received a large number of submissions that fell outside the scope of the inquiry, including those highlighting the alleged grave abuse conducted against Hong Kong citizens during the protests. While such submissions are not discussed in this report, there may be future inquiries to address these equally important violations. The inquiry members will consider whether and how such evidence could be used to engage international actors, for example, the UN, and/or how the UK Government should engage on the issue. This narrowed scope is justified below.

### *Oral Hearings*

The inquiry team conducted oral hearings with 10 witnesses between 27 May and 5 June 2020. Due to the COVID-19 pandemic, all oral hearings were conducted online through a secure, encrypted platform that was heavily monitored to protect the safety and anonymity of witnesses.

## Desktop Research

The inquiry members conducted some desktop research to explore the coverage of the topic and to help them identify the main issues at stake that may required further scrutiny throughout the inquiry process.

## 2.3. Justification of the Scope

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The inquiry members made a conscious decision to narrow the scope of the inquiry to humanitarian aid workers due to the following reasons:

- Humanitarian aid workers enjoy a special status within international humanitarian law, apart from the human rights law protections enjoyed by everyone. The protection of humanitarian workers and symbols is clearly of interest to every nation and every individual. Diminution of the protections they are expected to afford anywhere in the world is a threat to all future uses and humanitarian efforts.
- The APPG on Hong Kong has a limited capacity to engage with evidence gathering exercise. The number of humanitarian aid workers affected by such violations is, presumably, smaller than the number of protesters and citizens subjected to human right violations. Focusing on one group allowed a degree of management of the volume of material examined.

Understandably, the narrower focus of the inquiry on the situation of humanitarian aid workers is not to neglect or undermine the dire humanitarian situation in Hong Kong that requires attention and investigation. It is clear that violations against humanitarian aid workers and those against the general public are closely linked and interrelated. Indeed, where the report finds that human rights abuses have taken place against humanitarian aid workers, it is reasonable to assume that similar abuses have been perpetrated against the protesters or the general public. For example, Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) is considered in this report from the perspective of the medical workers. However, such a violation of Article 12 of the ICESCR in preventing humanitarian aid workers from delivering medical assistance is a clear violation of Article 12 of the ICESCR of those injured who are to receive the medical assistance.

The evidence we received consistently suggested that medical workers have often been targeted by the HKPF not simply because they are medical workers but because they have offered their medical services to protestors. It was, therefore, important that we discussed the treatment of medical workers in the context of the wider protest movement.

The inquiry's findings regarding the failures of the HKPF are also significant as they demonstrate a broader condition of impunity for human rights violations when they are committed by State authorities. The treatment of medical workers may well be the tip of the iceberg, considering credible reports by human rights organizations on instances of abuse in detention, sexual violence, and other violations.

## 2.4. Evidence

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The inquiry members have directly engaged with evidence of human rights violations, both through the written evidence submitted and during the subsequent oral hearings. The inquiry considered the factual information relating to the situation of humanitarian aid workers, excluding any opinions made by individuals or organisations providing written or oral evidence, even if some such opinions are cited below.

## 2.5. Security

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The APPG on Hong Kong appreciates the grave threat to the security of those who have submitted evidence. The APPG has taken many steps to protect the identity of anyone involved in this inquiry. This includes using end to end encrypted emails, two-step verification, a backup email address with the same security features and logging evidence using a numbering system which allows omitting references to specific names and thoroughly researching the most secure video platforms and emailing servers to use.

The above security measures were strengthened by our distanced relationship with Stand with Hong Kong throughout the inquiry process. Although the campaign organisation funded this inquiry, they were separated from all of the submitted evidence, witness testimony sessions, report writing and the creation of this report's recommendations. This enabled our inquiry to remain secure and neutral.

## 3. Assessing the HKPF's Treatment of Humanitarian Aid Workers

This section identifies relevant international laws, including international humanitarian principles and law, international human rights law and the Sino-British Joint Declaration. It also engages with the evidence to consider whether the HKPF's treatment of humanitarian aid workers violated these standards at any point.

### 3.1. International Humanitarian Principles and Law

Care for the wounded and the sick and the avoidance of targeting humanitarian aid workers (also referred to as humanitarian and relief personnel)<sup>25</sup> in conflict zones is well established under international humanitarian law. International humanitarian principles and law provide comprehensive protections for humanitarian aid workers, who are to be protected in all circumstances unless they engage in hostilities and so lose these protections.

**For anyone to benefit from the protections, they would need to qualify as humanitarian aid workers, and not act in a way that would warrant losing their right to protection (for example, by engaging in hostilities).**

Doctors, nurses, first-aiders and some human rights defenders qualify for the protection as humanitarian aid workers. As long as they do not engage in hostilities, they are to be protected as per the provisions discussed in this section. As one general practitioner testified:



When we were on duty, we put on yellow reflective vests clearly marked with red or green crosses and words of “EMS” or “FIRST AID”, as well as helmets with red or green crosses on them. We were at the scene for the sole purpose of providing medical care to those wounded in the conflict. We remained neutral at all times and did not take part in slogan chanting and anything deemed provocative or siding with either party. <sup>26</sup>

While one of the witnesses during the hearings claimed that protesters would often pretend to be humanitarian aid workers<sup>27</sup>, currently, there is little or no evidence to support this theory and it is important to note that even the witness declaring this had no evidence to support their claim. Also, even if there was evidence to support that some protesters would pretend to be humanitarian aid workers, this would not justify the HKPF's targeting of humanitarian aid workers.

## 3.1.1. Humanitarian Law

Humanitarian aid workers are protected under international humanitarian law independently of the nature of the conflict, and as such, so are civilians.<sup>28</sup> In relation to international armed conflicts, a distinction is made between the different types of humanitarian aid workers based on their role undertaken (for example, medical personnel, relief personnel, and civil defence personnel). This distinction does not apply to non-international armed conflicts, such as the conflict in Hong Kong. Hong Kong is not a war or armed conflict, and indeed, Geneva Conventions do not apply to 'situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature.'<sup>29</sup>

While the law of armed conflict does not apply to situations other than armed conflict, as the International Committee of the Red Cross (ICRC) clarifies, in situations other than armed conflicts, 'the role of officials and organizations tasked with law enforcement, irrespective of who they may be or how they are set up, is to: maintain law and order; prevent and detect crime; and assist in emergencies of all kinds.'<sup>30</sup> ICRC further clarifies that in cases of assemblies and demonstrations, the authorities may decide to let them take place or to disperse them, 'whatever the decision taken, there are a number of rights, rules and standards that the authorities must respect.'<sup>31</sup> As ICRC emphasises, 'Utmost attention must be paid to the obligation of law enforcement officials to respect and protect the life and security of all persons'<sup>32</sup>, including Articles 6 (1) and 9 (1) ICCPR, Article 2 Code of Conduct for Law Enforcement Officials (CCLEO)<sup>33</sup>, Preamble (para. 3) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (BPUFF)<sup>34</sup> and BPUFF No. 5.<sup>35</sup> As such, the ICRC stresses that,



The authorities must abide by the principles of legality, necessity, proportionality and precaution, i.e.:

- Their action must pursue a legitimate (i.e. lawful) objective.
- It must be necessary in order to achieve a legitimate objective (i.e. there is no less restricting measure available that would achieve the same objective).
- Any restriction of rights must be proportionate to the legitimate objective.
- All precautions must be taken to avoid excessive use of force and endangering or injuring uninvolved persons, and the authorities must take all possible measures to minimise damage. <sup>36</sup>

Similarly, where armed forces are responding to such situations, they are to take necessary measures to,



- Avoid excessive use of force by law enforcement officers, including military forces, while maintaining or restoring law and order.
- Ensure that any person who is wounded receives suitable treatment and that dead bodies are treated with respect and identified.
- And ensure that those arrested or detained by authorities maintaining or restoring law and order are treated fairly and humanely. <sup>37</sup>

Furthermore, as ICRC clarifies, in cases of internal disturbance and tension, essential principles of human rights are to apply, including,



- The right of every human being to life, liberty and security of person.
- The prohibition of torture and cruel, inhuman or degrading treatment or punishment.
- The prohibition of arbitrary arrest or detention.
- The right to a fair trial.
- The right of persons deprived of their liberty to be treated with humanity.
- The prohibition of arbitrary or unlawful interference with a person's privacy, family, home or correspondence. <sup>38</sup>

ICRC explains that 'lawful, non-arbitrary and precisely targeted forms of action directed at initiators and perpetrators of disturbances and tensions can lead to a reassertion of control and defuse a situation. Random action – as well as unlawful, arbitrary and discriminatory action – can erode confidence in law enforcement, further endanger public safety and be at least partly responsible for the further escalation of a situation.'<sup>39</sup>

And while the situation in Hong Kong does not amount to an armed conflict, the international humanitarian law provisions are still relevant in this case as they set up commonly accepted international standards in relation to the treatment of humanitarian aid workers specifically.<sup>40</sup>

Considering the nature of the situation in Hong Kong, the relevant case provisions are in the Geneva Convention IV, which protects civilians, and the Additional Protocol II, which protects

victims of non-international armed conflicts, although keeping in mind that the situation in Hong Kong is not an armed conflict. **As such, members of the inquiry will consider whether the treatment of humanitarian workers by the Hong Kong police violated either the spirit or the letter of Article 20 of the Geneva Convention IV, and Articles 9, 10 and 11 of the Additional Protocol II which guarantees the protection and respect of medical units.** This is to give effect to the need of protecting humanitarian aid workers, who, as in the case of Hong Kong, appears to be left without any or any adequate protections when assisting those injured. It would have been an unintended situation if the humanitarian aid workers in Hong Kong were not to benefit from these protections as the situation in Hong Kong does not classify as a non international armed conflict and not to benefit from domestic provisions as excessively restricted or stripped off by the authorities in Hong Kong.

Article 20, first paragraph, of the Geneva Convention IV states:



Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected. 

Article 9(1) of the 1977 Additional Protocol II (Additional Protocol II) provides that ‘Medical... personnel shall be respected and protected and shall be granted all available help for the performance of their duties.’

Article 10 adds:



Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom. Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol. 

Article 11 of the Additional Protocol II, on the protection of medical units and transports, states:

1. ‘  
■ Medical units and transports shall be respected and protected at all times and shall not be the object of attack. ’

2. ‘  
■ The protection to which medical units and transports are entitled shall not cease unless they are used to commit hostile acts, outside their humanitarian function. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded. ’

The evidence obtained by the APPG on Hong Kong indicates that the HKPF, contrary to Article 20 of the Geneva Convention IV and Articles 9(1) and 11 of the Additional Protocol II, failed to protect or respect ‘the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.’

For example, one witness states:

‘  
**At the time I was shot, I was bringing a few injured to the basketball court so that they could be treated by the first-aiders. I did not pose any threat to the police.** At the same time, I saw that several police officers rushed towards the crowd, captured a few people and arrested them. I heard that some residents were also shot by pepper-spray balls. ’<sup>41</sup>

The cited example shows how instead of protecting its citizens, the HKPF targeted them. It is crucial to investigate cases like this to identify the true scope of the issue.

Furthermore, contrary to Article 9(1) of the Additional Protocol II, the HKPF failed to grant humanitarian workers the resources and support they needed in order to carry out their duties. Much to the contrary, the evidence indicates that the HKPF obstructed humanitarian workers from attending to the injured. Among others, several individuals testified that they were not allowed to provide medical assistance to the injured or were attacked while trying to do so.

For example:



On 21 September 2019, when assisting in Mong Kok, a first-aider saw that ‘a protester, whose hands were being zip-tied behind his back, was being pressed on the ground with his face facing down. The arresting officer was a Special Tactical Squad (STS) member who pressed his knee on the protest’s back. [The first-aider] was alerted by a medical emergency as evidenced in the pale-looking protester’s disordered breathing, shortness of breath and pale looking, **[The first-aider] requested to provide first aid to the protester. However, the STS officer refused [the first-aider]’s request, and proceeded to forcefully grabbed the protester by his neck,** pulled the protester’s upper body up while the officer was still pressing his knee on the protester’s back, repeatedly shook the protester’s by his neck and asked the protester if he was injured. The protester, who was still being pressed on the ground, then answered ‘No’ with a weak voice. <sup>42</sup>

Contrary to Article 10 of the Additional Protocol II, the HKPF’s treatment of humanitarian aid workers may be indicative of humanitarian workers being ‘punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.’ This is particularly clear from the evidence obtained by this inquiry, which suggests that medical and humanitarian aid workers were subjected to intimidation, threats, physical violence and arrests. During one of this inquiry’s oral evidence hearings, one of the witnesses who confirmed that he has served as a first-aider before the protests began, explained that he had never experienced such brutal treatment before. Only when he started volunteering during the protests, did intimidation, threats and physical violence begin.<sup>43</sup> This clearly indicates a link between the first-aiders assisting protesters and them being subjected to intimidation, threats and physical violence.

Where humanitarian aid workers were targeted by the HKPF when trying to provide medical assistance to the protesters and subjected to intimidation, harassment, physical violence, unlawful arrests and many more, such treatment may amount to ‘punishing’ them for providing medical assistance to protesters. Among others:



**It was also common for first-aiders to be stopped and searched by police, detained on the spot and made to line up in a row for prolonged periods, questioned about their identity and qualifications, and called fake first-aiders without grounds. First-aiders were frequently subject to verbal abuse and pepper-sprayed by police.** All of these were means to deter medical personnel from providing first aid at conflict zones and preclude people in need from accessing on field emergency treatment. **”**<sup>44</sup>

According to Article 11(2), the protections available to humanitarian aid workers does not cease until they engage in ‘hostile acts, outside their humanitarian function’. Based on the evidence available, it is difficult to concede that humanitarian aid workers were engaged in hostile acts that could justify the HKPF in ceasing to protect them, and indeed, target them. For example, a medical professional (GP) testified that:



When we were on duty, we put on yellow reflective vests clearly marked with red or green crosses and words of “EMS” or “FIRST AID”, as well as helmets with red or green crosses on it. We were at the scene for the sole purpose of providing medical care to those wounded in the conflict. We remained neutral at all times and did not take part in slogan chanting and anything deemed provocative or siding with either party. There were numerous instances where we had to run away with protesters because of sudden police charging with batons, often with indiscriminate shooting at civilians, journalists and medical personnel with less-lethal weapons at close ranges, and thus rendering us unable to provide care on the field. **”**<sup>45</sup>

Furthermore, if there was such evidence indicative of some humanitarian workers engaging in hostile acts, the HKPF would still have to give a warning ‘setting, whenever appropriate, a reasonable time-limit’ before ceasing to protect humanitarian aid workers. Also, if it were true that some individuals pretended to be humanitarian aid workers to abuse this position or were genuine humanitarian aid worker but engaged with hostilities, this still does not justify suspending the protections towards all humanitarian aid workers providing assistance during the protests. Furthermore, the response by the HKPF would still need to be proportionate and in conformity with international standards on the use of force, including the principles of necessity and proportionality.

*Based on the evidence obtained, it may be concluded that the treatment of humanitarian workers by the Hong Kong police is highly likely to have violated either the spirit or the letter of Article 20 of the Geneva Convention IV, Articles 9, 10 and 11 of the Additional Protocol II, which guarantees the protection and respect of medical units.*

## 3.1.2. Humanitarian Principles

The remit of the inquiry included consideration of whether the HKPF treated humanitarian aid workers humanely; whether the actions of the HKPF were necessary; whether the HKPF made a distinction between those they considered ‘combatants’ and of a threat to public order and humanitarian aid workers; and whether the use of force by the HKPF was proportional. International humanitarian law enshrines several fundamental principles that should be considered in the scope of this inquiry when assessing the HKPF’s treatment of humanitarian workers. The international humanitarian law recognises four fundamental principles of the conduct of hostilities: distinction, military necessity, proportionality, humanity.

- The principle of humanity recognises that parties to the conflict can respect and care for others.
- The principle of distinction between civilians and combatants, and between civilian objects and military objectives, enshrined in Rule 7 states that ‘the parties to the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.’<sup>146</sup> Furthermore, Rule 11 states that ‘Indiscriminate attacks are prohibited.’<sup>147</sup>
- The principle of proportionality in Rule 14, states that ‘Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.’<sup>148</sup>
- The principle of military necessity permits conduct that will result in destruction and inflict harm, where necessary.

### *Humanely*

Based on the evidence before the APPG, it is difficult to concede that the officers treated humanitarian aid workers humanely, namely, that they afforded a degree of respect and care for humanitarian aid workers in their dealings. This is evidenced by the following:

- The use of verbal abuse and dehumanising language by the police officers, including, calling humanitarian workers ‘cockroaches’<sup>149</sup>, or using vulgar language towards female humanitarian workers<sup>150</sup>, for example:
  - Calling them ‘black social workers (黑社工), fakers (假社工), freedom cunts (自由閹), cockroaches (甲由), prisoners (監躉), etc.’<sup>151</sup>
  - ‘Many others including himself were being shouted at with violent language. Among all the verbal assaults they received, there were no less wordings aimed at discriminating humanitarian assistance providers, wrongful accuses and dehumanisation. Those are re-capped here in Cantonese: “望咩望” “唔中立” “收左錢” “有份破壞” “畜牲”.’<sup>152</sup> **These translate to “What are you looking at?” “biased”, “been bought off”, “vandal”, “brute”.**
  - At the Yuen Long police station, ‘the police officers started verbally abusing her by labelling her as “cockroaches” and retarded, swearing at her and claiming that she deserved to be arrested.’<sup>153</sup>

- The excessive use of stop and search powers on humanitarian workers<sup>54</sup> and arrests or other restrictions of their freedom of movement, for example:
  - On 21 September 2019, a first-aider attended a protest in Tuen Mun, with a group of nine other aid-workers and some journalists. As the protestors were ‘slowly leaving in a peaceful manner... two groups of police officers were marching towards the crossroad. They announced with a loudspeaker that the protest was unlawful and demanded the crowd to leave the scene immediately. They also raised two blue flags which contained this notice: **“Police warning: This meeting or procession is in breach of the law. Disperse or we may use force”**. Those actions took place before 5:00 pm, which was the time of expiration of the “Notice of No Objection” issued by the Hong Kong police for the protest. Suddenly, a plainclothes police officer rushed towards the crossroad. He pointed a baton at [the group of first-aiders and journalists], while some other police officers also shined a flashlight at [them]. He demanded to conduct a “stop and search” on [them] but did not specify the reasons. **A group of 10-20 police officers joined him and conducted “stop and search” on the first-aiders and reporters near the crossroad. [The first-aiders] were asked to squat down, face a wall, and wait until the stop-and-search finished. [A] higher rank officer shouted: “乜撚野救護啊” (“what fucking first-aider are you?”)**. A police officer found a pair of gauze scissors in [the first-aider’s] backpack. He claimed that it was a dangerous weapon. [The first-aider] explained to him that it was for medical purposes.<sup>55</sup>
  - ‘...we were prevented by the police from leaving the site, despite showing our credentials as medical workers. We stayed at a pedestrian zone near the campus until 9:30 pm when the police announced that those who wished to leave should do so via a designated exit point. We moved along to the designated point together with some reporters. However, **we were then apprehended by a group of heavily armed riot police, who hurled verbal abuses at us (such as calling us “fake medics” and “fake journalists”). We were ordered by the police to put our hands up in the air and wait to be searched.**<sup>56</sup>
  - ‘...policemen also verbally abused this group, accusing the group as “fake medics,” and that they do not trust them. In front of the group, there was another batch of policemen that directed them to the roadblock for checks. **When asked to provide their Hong Kong Identification (HKID), the interviewee also provided her health care professional staff card. The police present did not cross-check this information to confirm the identity of the interviewee. Despite the earlier promise they were not allowed to pass.**<sup>57</sup>
  - ‘An officer in a blue uniform pointed his baton at the social workers and asked them about their identities. The officer was brandishing his baton at the social workers. [Two human rights defenders] explained that they were social workers. **The officer left. Other officers started to call them black social workers (黑社工), fakers (假社工), freedom cunts (自由閻).**<sup>58</sup>

- On 21 September 2019, the first-aiders were present at a protest to provide medical assistance in Mong Kok. At or around 10:00 pm, the first-aiders 'was stopped and searched by a police officer as he was being accused of possessing "dangerous goods" inside first-aid backpack with a "first-aid" logo. The officer forced his baton between [the first-aiders] back and his backpack and rudely pulled the baton up. He further accused [the first-aiders] of masquerading as a first-aiders and called him a "cockroach" even though [the first-aiders] had shown him his medical clinic staff ID card with his name and photo on it. Later on, another officer came and released [the first-aiders].'<sup>59</sup>

### Necessity

While the principle of necessity permits conduct that will result in the destruction and infliction of harm, where necessary, it is difficult to concede that the infliction of harm upon humanitarian aid workers, as described in the evidence gathered, was necessary in all the circumstances. This is particularly notable in cases where humanitarian aid workers did not engage in hostilities, pose any threat or where the HKPF resorted to inflicting harm upon humanitarian workers without any prior warning, for example:

- 'According to the first-aiders, police gave no prior verbal warning and he was not aware that the police had raised any warning flag at the time of the shooting. He sustained soft tissue injuries of around 15cm in diameter which took approximately 1 month to settle.'<sup>60</sup>
- 'The stand-off [between the police and protesters] lasted for around 10 minutes until the police raised the blue warning flag (which reads "This meeting or procession is in breach of the law. Disperse or we may use force"). [The first-aiders] recalled that the **police gave no verbal warning and had only raised the warning flag for 30 seconds before they started firing tear gas canisters at the crowd with 1/3 first-aiders.** The firing was indiscriminate, and the police allowed no time for the crowd to disperse.'<sup>61</sup> The first-aiders were shot at the inner side of his left knee. The soft tissue injuries took approximately two months to settle. The first-aiders recalled that another first-aiders was shot at his right foot ankle.'<sup>62</sup>

During the oral hearings, the members of the inquiry have heard that some of the humanitarian aid workers would be 'embedded' with the protesters<sup>63</sup>, namely, that they would be among the crowd of protesters. The evidence obtained by the APPG indicates that humanitarian aid workers (and journalists) would usually be located separately from the protesters. Furthermore, a humanitarian aid worker standing amongst protesters should not be considered, by default, as the humanitarian aid worker being a protester. Indeed, humanitarian aid workers may have a reasonable excuse for why they would be among the protesters - this being to provide medical assistance to the protesters. Hence, the claim would require further consideration to determine whether and how many cases of humanitarian aid workers who were attacked were 'embedded' with the protesters and how many were providing medical assistance on the spot.

### *Proportionate*

The evidence obtained indicates that the use of violence against humanitarian workers was not proportionate as the harm caused was excessive in relation to the advantage anticipated. This is particularly visible where the HKPF was resorting to force even though the humanitarian aid workers were not engaged in hostilities, for example:

- A first-aider volunteered during the Chinese University of Hong Kong (CUHK) protest from 11 to 15 November 2019 ‘During the CUHK [protest], there were vigorous clashes between the police and the protesters at the border of the university as the riot police wanted to storm into the campus to conduct mass arrest. One of the war zones was the No. 2 bridge of the university where the police had attempted to seize control of [it]. I was offering medical help at a first-aid station next to the No.2 bridge. During the clashes, the police fired volleys of tear gas in the campus, and fired rubber bullets, beanbag rounds and sponge grenades at the students and protesters at the No.2 bridge. Many students and protesters got shot in the head, or sustained severe burn[s]. Medical service volunteers, therefore, had to perform first aid immediately on these students and protesters at the first aid station next to the No.2 bridge. **However, the riot police without regard to the safety of the people inside the first aid station, insisted to push their cordon line over No.2 bridge by shooting canisters of tear gas, rendering the first aid station unsafe to perform immediate medical treatment on the injured.** The medical service volunteers inside, including me, had to retreat to the sports field which was miles away from the first aid station with the injured students and protesters, so as to continue with our performance of first aid. The charging of the police had obstructed the injured from receiving prompt medical care, which was extremely detrimental to the injured protest[e]rs who had sustained lethal injuries.’<sup>64</sup>

### *Indiscriminate*

The evidence indicates that the police officers did not distinguish between the minority of protesters who may have posed (or be seen as posing) a threat and humanitarian aid workers. As the evidence obtained makes clear, the interviewed humanitarian aid workers were wearing special vests and helmets (with signs and symbols) to allow others to distinguish them from the protesters. However, these were disregarded. Furthermore, many of the interviewed humanitarian workers provided their first-aider ID or relevant medical identifications and made them available to the HKPF whenever asked. This was not respected by the HKPF. Indeed, as some evidence indicates, even when providing the relevant information, they have faced intimidation and their qualifications have been undermined.<sup>65</sup> For example:

- ‘I probably became a target because I was quite tall (around 1.9m) and **I was wearing a blue vest.** The police also shined the strong flashlight towards me. No one was near me when I was shot. **The officer who shot me must have realized that I was a first-aider.**’<sup>66</sup>
- On 20 October 2019, [two volunteer social workers<sup>67</sup>, later referred to as human rights defenders] attended a demonstration which started in Tsim Sha Tsui. The [two human rights defenders] ‘witnessed several incidents in which passers-by were pepper-sprayed by police officers in the evening. As they tried to use the megaphone to urge restraint, they became the target of the police. As a result, [one of the human rights defenders] **was pepper-sprayed even though he had put his t-shirt on and carried with him his social worker registration card.** At around 12 am, [two human rights defenders]

retreated to the Argyle Street in which there were only a few passers-by in casual wear. A police water cannon truck passed by where [two human rights defenders] and other two team members were standing, and sprayed water mixed with blue liquid dye at them at close range (around 10 meters in distance) without any prior notice. As they recalled, “the water cannon was clearly targeting at us, as the truck stopped for a few seconds before it reversed and sprayed water at us.”<sup>68</sup> The same day, another volunteer social worker was patrolling with another team member. She recalled that ‘some police officers inside the police station area suddenly held warning flags behind the water-filled barrier right before they used tear gas to dispersal the crowd gathering outside the police station. **Due to the short notice, [the human rights defender] did not have time to leave the scene.** [The human rights defender] was shot right at her face by a tear gas grenade. Luckily, she was protected by her google but she was still shocked and traumatised by this experience.’<sup>69</sup>

*The evidence indicates that HKPF has failed to treat humanitarian aid workers humanely; their actions of the HKPF were not proportional; the HKPF did not make a distinction between those they considered ‘combatants’ and of a threat to public order and humanitarian aid workers, and the use of force by the HKPF cannot be regarded as necessary.*

## 3.2. International Human Rights Law

The relevant international human rights law is laid in, among others, the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICCPR and the ICESCR apply to Hong Kong, as per the Sino-British Joint Declaration, which stipulates that Hong Kong enjoys long-established freedoms and the rule of law and includes a commitment to follow the ICCPR and ICESCR:

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 remain in force.

Subsequently, the ICCPR and ICESCR have both been ratified by the Hong Kong government, and are protected through Hong Kong’s Basic Law. The Hong Kong Bill of Rights Ordinance (BORO) (Cap. 383) incorporates these constitutional commitments into domestic law.

The relevant provisions of the ICCPR for the scope of the inquiry are Articles 6 (the right to life), 7 (the right to be free from torture or cruel, inhuman or degrading treatment or punishment), 9 (right to liberty and security of person), and 10 (the right to humane treatment when deprived of their liberty).

Violations of the right to life (Article 6 of the ICCPR) do not only refer to active attempts at depriving life but may include violations of:



...the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity. Article 6 of the [ICCPR] guarantees this right for all human beings, without distinction of any kind, including for persons suspected or convicted of even the most serious crimes. <sup>70</sup>

The prohibition in **Article 7** ‘relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim’ and extends to ‘corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure.’<sup>71</sup> The prohibition applies ‘even in situations of public emergency such as those referred to in Article 4 of the Covenant, no derogation from the provision of Article 7 is allowed and its provisions must remain in force... no justification or extenuating circumstances may be invoked to excuse a violation of Article 7 for any reasons, including those based on an order from a superior officer or public authority.’<sup>72</sup> The prohibition of torture is further enshrined in Article 7 of Basic Law, Article 28(2) of the Hong Kong Bill of Rights Ordinance, and Article 3 of the UN CAT.

As the General Comment No. 35 on the right to liberty and security of person (**Article 9 of the ICCPR**) makes it clear, ‘an arrest or detention<sup>73</sup> may be authorised by domestic law and nonetheless be arbitrary. The notion of “arbitrariness” is not to be equated with “against the law”, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.’<sup>74</sup> Furthermore, the UN Working Group on Arbitrary Detention clarified that the prohibition of arbitrary detention is absolute, ‘it is a non-derogable norm of customary international law or jus cogens. Arbitrary detention can never be justified, including for any reason related to national emergency, maintaining public security or the large movements of immigrants or asylum seekers. This extends both to the territorial jurisdiction and effective control of a State.’<sup>75</sup> In addition to the ICCPR, the right to liberty and security of person is further protected in Article 28 of the Basic Law and Article 5 of the Hong Kong Bill of Rights.

As per the General Comment No. 21, Article 10(1) of the ICCPR, the right to humane treatment in detention:



...Imposes on States a positive obligation towards persons who are particularly vulnerable because of their status as persons deprived of liberty and complements for them the ban on torture or other cruel, inhuman or degrading treatment or punishment contained in Article 7 of the Covenant. Thus, not only may persons deprived of their liberty not be subjected to treatment that is contrary to Article 7, including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons. Persons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment. <sup>76</sup>

Article 12 of ICESCR (right to health) is relevant to this inquiry. Article 12 of the ICESCR, refers to the protester’s right to health, and conversely, the state’s duty to respect, protect and fulfil that right, as General Comment No. 14 clarifies, ‘in turn, the obligation to fulfil contains obligations to facilitate, provide and promote.’<sup>77</sup> The General Comment No.14 further states that:



The obligation to respect requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health. The obligation to protect requires States to take measures that prevent third parties from interfering with Article 12 guarantees. Finally, the obligation to fulfil requires States to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health. <sup>78</sup>

The UDHR, as a declaration, is not legally binding. However, the UDHR constitutes part of the international customary laws and is binding as such. The most relevant provisions of the UDHR here are Article 3 (right to life, liberty and security of person) and Article 5 (the right to be free from torture or to cruel, inhuman or degrading treatment or punishment).

The evidence obtained by the APPG on Hong Kong is indicative of violations of international human rights laws. The following section considers violations of the relevant provisions of the ICCPR under two main headings: 1) inflicting pain and suffering to humanitarian aid workers (covering the right to life in Article 6 of the ICCPR and the right to freedom from torture and other inhuman and degrading treatment or punishment in Article 7 of the ICCPR) and 2) conducting arrests and detaining humanitarian aid workers (covering Articles 9 and 10 of the ICCPR).

## 3.2.1. The Infliction of Pain and Suffering Expressed by Humanitarian Aid Workers

The evidence obtained by the APPG on Hong Kong indicates that, in some cases, the HKPF subjected humanitarian aid workers to pain and suffering. For example:

### *Using excessive physical force on humanitarian aid workers:*

- On 9 February 2020, at or around 1:00 am, the first-aid worker was at Beverly Garden (富康花園), together with four or five other aid-workers. The first-aid worker was wearing a blue vest and a helmet which identified him as a first-aid worker, he also had a first aid sign clearly displayed on his backpack. As the first-aid worker recalls: **'We were treating some wounded protestors, most of whom were pepper-sprayed.** The first-aid workers and the victims were at a basketball court at Beverly Garden. Some of the police officers rushed into Beverly Garden and shot pepper-spray balls. The police did not raise any flags or give any warnings before they shot. Around 10 to 20 shots were fired. All shots were fired horizontally when the protestors were just around 20 meters away from the police. **I was shot in the chest and the right wrist.** Fortunately, I was wearing a thick jacket which protected both my wrists and my chest. I did not feel too much pain, but one pepper-spray ball left a visible mark at my right wrist...<sup>179</sup>
- 'At night on 11 October 2019, [a human rights defender] was at the junction of Dundas Street and Shanghai Street. He was trying to provide humanitarian aid to a man, who was tied up by some unknown persons. When [the human rights defender] was trying to approach the man, he was pushed by riot police. The police asked him to leave the scene. He explained his identity and intentions and he started to leave. When he set foot on a nearby pedestrian lane, the police officers said that the lane was part of a cordon and demanded [the human rights defender] to walk backwards. **When [the human rights defender] was turning back, a police officer shot pepper spray at him. The pepper spray was shot at his temple through the gap between [the human rights defender]'s eyes and his eyeglasses. [The human rights defender] immediately lost his eyesight, felt extremely painful, and had difficulty breathing. He could not open his eyes all night and felt a burning pain in his hands.** He washed his face with a lot of clean water. The pain started to dissipate two days later. [The human rights defender] confirmed that he did not confront or obstruct the police. He kept holding his hands up when he was trying to leave the scene. There were reporters and social workers at the scene, and none of those people posed any threat to the police. The police did not give any warning at all before they used pepper spray.<sup>180</sup>
- On 15th September 2019, a first-aid worker was volunteering and providing first aid with five others during a protest in Admiralty.<sup>81</sup> At or around 4:00 pm, the protesters were using an umbrella formation amid a stand-off with the riot police who were just at the other side of the crossroad. 'The stand-off lasted for around 10 minutes until the police raised the blue warning flag (which reads: "This meeting or procession is in breach of the law.

Disperse or we may use force”). **[The first-aiders] recalled that the police gave no verbal warning and had only raised the warning flag for 30 seconds before they started firing tear gas canisters at the crowd with 1/3 first-aiders...** the firing was indiscriminate and the police allowed no time for the crowd to disperse.<sup>182</sup> The first-aider was shot at the inner side of his left knee. The soft tissue injuries took approximately two months to settle. The first-aiders recalled that another first-aider was shot at his right foot ankle.<sup>83</sup> **The first-aider was shot at the inner side of his left knee.** The soft tissue injuries took approximately two months to settle. The first-aiders recalled that another first-aider was shot at his right foot ankle.<sup>83</sup>

- On 31st October 2019, between 9:30 and 10:00pm, [a human rights defender] was at Arran Street Sitting-Out Area, Arran Street, Prince Edward. ‘Some protestors and [human rights defenders] were at the Sitting-Out Area and the nearby footpath. The police formed a cordon on the main road but there were no conflicts. The police also did not declare the public meeting as illegal. The situation was relatively peaceful. [The human rights defender] was wearing a black t-shirt which shows the words “We are Social Workers Stand up for Justice” in Chinese. The other [human rights defenders] were also wearing this type of t-shirts (or other similar types which identify themselves as [human rights defenders]). Suddenly, the police rushed towards Arran Street. One of the [human rights defenders] at the scene used a megaphone and called on the police to use firearms carefully. A group of police officers angrily confronted her and said, “Why are you so biased? Didn’t you see them setting a fire?” A police officer rushed into the Sitting-Out Area. Other police officers marched forward with shields. [The human rights defender] was about to leave. He turned around and saw a police officer attempting to arrest an elderly woman. **When he was about to shout at the officer to stop him, he was hit by some hard objects behind him. He was not sure whether he was hit by police batons. He was pushed at the back, and he was hit again by a hard object in front of him. He fell on a bench. When he stood up again, he noticed that there was liquid running down his face. It was his blood.** He was so helpless that he did not know how to react. He asked the police officers present with a wry smile, “Why did you hit me when I was just a social worker and I had not done anything illegal or offensive?” [The human rights defender] could not see the appearance of any police officers as they were all masked. He also could not see any identifiable numbers on their uniforms. [The human rights defender] was sent to the hospital. There were two scars on his head. One of the scars was about 7 cm long and required 5 stitches. His hands and feet were also injured. **When he later watched the footages of his incident, he found that a police officer hit him with a baton for 5 times.** During the attack, [another human rights defender] demanded an explanation from the police commander. **She was also pepper-sprayed in the face by a policewoman for 5 times. She later suffered from vomiting and stomach pain.**<sup>184</sup>
- ‘One of the policemen suddenly stepped forward and **violently grabbed [the first-aider’s] face mask and helmet in one to strap him down on the ground. Then [the policeman] forced him to move by dragging him on the ground for a while.** And there was no sign of [an arrest].<sup>185</sup>

*Firing rubber bullets at the humanitarian workers, for example:*

- ‘Frontline first-aiders and reporters were injured in the clash on the CUHK [Chinese University of Hong Kong] campus on 12th November. **An emergency room nurse ... said that her back was hit by a rubber bullet on the campus.** She would have been injured with the shot in the left part of her chest if she had not carried her backpack with a helmet inside. Yet it was still painful. “It would be a murder as my left side of chest and heart was shot. The heart would stop beating with such sharp impact. I could not breathe nor move as I was dead.”<sup>86</sup>
- ‘During an incident on 11th August 2019, at or about 7:00pm, [a first-aid] recalled riot police started dispersing the crowd of around 50 protesters and 2 first-aiders (him and his teammate) in Wan Chai. **When he was trying to pull a protester away from the frontline, he was shot by a rubber bullet in his left shoulder when he was only about 15 meters away from the police...** He sustained soft tissue injuries of around 15cm in diameter which took approximately 1 month to settle.<sup>87</sup>

*Firing rubber bullets at the humanitarian workers, for example:*

- A first-aid volunteer during the Chinese University of Hong Kong (CUHK) conflict from 11th to 15th November 2019 ‘During the CUHK conflict, there were vigorous clashes between the police and the protest[e]rs at the border of the university as the riot police wanted to storm into the campus to conduct mass arrest... I was offering medical help at a first aid station next to the bridge No.2. During the clashes, the police fired volleys of tear gas in the campus, and fired rubber bullets, beanbag rounds and sponge grenades at the students and protest[e]rs at the No.2 bridge. Many students and protest[e]rs got shot in the head, or sustained severe burnt. Medical service volunteers, therefore, had to perform first aid immediately on these students and protest[e]rs at the first aid station next to the No.2 bridge. However, **the riot police without regard to the safety of the people inside the first aid station insisted to push their cordon line over bridge No.2 by shooting canisters of tear gas, rendering the first aid station unsafe to perform immediate medical treatment on the injured.** The medical service volunteers inside, including me, had to retreat to the sports field which was miles away from the first aid station with the injured students and protesters, so as to continue with our performance of first aid. The charging of the police had obstructed the injured from receiving prompt medical care, which was extremely detrimental to the injured protesters who had sustained lethal injuries.<sup>88</sup>
- ‘On January 1st, 2020, with Notice of No Objection from the police, a march estimated to consist of 1 million people took place along a trunk road on Hong Kong Island from Causeway Bay to Admiralty. I attended as first aid personnel with my team. We again identified ourselves with properly marked reflective vests and helmets. The march was cut short by the police with riot police surrounding peaceful demonstrators from all directions and releasing tear gas into unarmed civilians. At close to 8 pm, I was standing at the ground entrance of a commercial building opposite Sogo Dept Store across the tram line where hundreds of civilians were ordered to stand or squat along the walls, hands-on head. Some with reflective vests clearly marked “EMS” or “FIRST AID” were amongst those cordoned off. There were likely people who were injured during the police charge. Many probably had irritation in the eyes and airway due to exposure to tear gas, and other chemical burns after being pepper-sprayed in the eyes and face.

**As they were all cordoned off, first-aiders were prohibited from reaching them and providing them with medical care.** I could only observe from a distance. In the meantime, I was near where Legislator Ted Hui Chi-Fung got pushed to my side of the street, his goggle pulled away by police officers and pepper-sprayed on the face. There were other civilians near where I stood. Some were engaging in a verbal conflict with police while my team attended to those pepper-sprayed. Police then charged toward our direction, **we first-aiders, and other civilians were all indiscriminately peppersprayed. I had my left arm, neck and the back exposed. Two of my female teammates got sprayed on the face.** There was redness and burning sensation of the affected areas which for me lasted several hours.<sup>89</sup>

- Between 11th and 15th November 2019, ‘During the course of the confrontation [at the Chinese University of Hong Kong], **[a first-aid] got hit by tear gases 3 times and his bullet-proof helmet was broken by unidentified ammunition.** In addition, [the first-aid] reported] that the tear gases’ concentration at the scene was unbelievably dense. In normal days when [the first-aid] attended protest scenes with substantial tear gas exposure, the cartridge filter of his full-face respirator can usually be reused and lasted for 1 month. However, [the first-aid] had to change the cartridge filter for 3 times in order to breathe amid the tear-gas concentrated air at No. 2 Bridge. At that material time, each cartridge filter could last only 2 – 3 hours.’<sup>90</sup>
- On 12th June 2019, a first-aid] was volunteering in Admiralty. ‘[The first-aid] ran between the [humanitarian workers’] Tents and the Protestors. He assisted in transferring injured Protestors to the Tents. Their body showed redness and their eyesight was hindered which required immediate cleansing measures. **Soon after, [the first-aid] saw a tear gas canister hit the Tents directly. It forced some of the medical volunteers and injured persons to run away and some went inside the Carpark of Citic Tower to avoid the gas. [The first-aid] saw a second canister fired right at the Tent, forcing people to run toward the Carpark of Citic Tower.** Medical volunteers continued to assist injured protestors there. [The first-aid] was also trying to clean his own eyes at that time. Another tear gas canister was then fired into the Carpark... As [the first-aid] is suffered from eczema, a long-term skin problem, he has been severely injured every time by tear gas, pepper spray and the Water Cannon. **His shoulder was shot by a tear gas canister and was then bruised.** [That inflicted] skin problems to him and the tear gas make him sick to have a meal. **His back was also shot by the rubber bullet and painfully bruised.** The liquid used by the Water Cannon was mixed with unknown substances having similar effects as tear gas, which inflicts redness, hot and painfulness to the wetted skins. Which has a significant effect on his eczema problem.’<sup>91</sup>
- In the early morning of 25th December 2019, a first-aid] was on Shantung Street, Mong Kok, wearing a blue nylon first-aid vest. As the first-aid] recalls: ‘a man was beaten by a crowd of angry protestors. After the crowd left, I attended the victim with 3 other first-aiders. The 4 of us were surrounded by 20 other first-aiders. They formed a circle around us to prevent any onlookers from interrupting our rescue. As the man had been severely injured, I told other first-aiders to call an ambulance. At the same time, I saw a group of fully armed riot police on my left. They formed a line and marched towards us. They also shined a strong flashlight at us. **We shouted to the police that we were doing the first-aid job. The police fired rounds of tear gas at us. It was indeed a “teargas buffet” (“TG 放題” in Cantonese, a term Hongkongers often used).** I

**felt stinging and burning. I coughed violently due to the vast amount of tear gas inhaled.** However, I could not leave the scene as the man was so badly injured. I could not leave him unattended before the ambulance arrived. His situation was terrible – he lost consciousness, his pulse was weak, and he was bleeding massively. There was a 0.5cm deep wound at his hindbrain. I could see some white liquid leaking from his ears. I did not wear any protective masks or respirators at the time. The 4 of us (the first-aiders who treated the man) only had one respirator. We took a turn to use it. We have been exposed to tear gas for more than 30 minutes. Eventually, some firemen arrived to take over our duties. We then left.<sup>192</sup>

- **‘One of the [humanitarian aid workers] was pepper-sprayed. He was immediately blinded and retreated to an alley to recover.** Due to the number of civilians gathered in the area, the police raised a warning flag and used tear gas. As the gas was dispensed on a small road, and there was insufficient time between the warning and the dispersal, the Interviewees were severely impacted. The Interviewee suffered from the reaction of pepper spray, their skin turned “red and bumpy”. The Interviewee inhaled tear gas and suffered from random nose bleeds.<sup>193</sup>
- Another first-aider testified: ‘I was a voluntary first-aider. I was inside the Hong Kong Polytechnic University (PolyU) for approximately 3 days during the siege in November 2019. [...] During the siege, **I was injured in the arm as I was hit by tear gas.** The [PolyU] incident has a huge impact on me mentally. After I left [the PolyU], I found myself in an extremely depressed state and at some point, the thought of committing suicide came across my mind. I was aware of my situation so I began attending counselling sessions. I was not diagnosed with PTSD, however, I remained depressed for at least 2 months and I panic easily. I continue to attend counselling sessions to this date.<sup>194</sup>

*Firing (corrosive) liquids at humanitarian aid workers, for example:*

- In the afternoon of 1st October 2019, a human rights defender and a group of others were standing on a footbridge above Harcourt Road, Admiralty. The human rights defender recalls: ‘a protest was taking place, and the police were dispersing the protestors. Using a loudspeaker, the [human rights defender] shouted to the police to ask them not to use lethal weapons against citizens on the footbridge. They all wore black uniforms which clearly identified themselves as [human rights defenders through fluorescent markers]. [The human rights defenders] recalled that two police officers on Harcourt Road pointed their guns at the [human rights defenders]. [The human rights defender] believed that the guns were deliberately aimed at them as there were no other people near [them]. Suddenly, a protestor on the road threw a Molotov cocktail at the police. The police responded by firing blue liquid from a water cannon truck. [The human rights defender] was hit with some of the blue liquid. [The human rights defender] lost her eyesight in the next half an hour. She was extremely painful and had difficulty breathing. She immediately took some anti-asthmatic inhalants. Some volunteer first-aiders took her to a restaurant nearby, helped her to change clothes and cleaned her body with wet towels. She was subsequently taken to a hotel to take showers. [The human rights defender] took showers in the hotel for 3 times, but she still felt burning pain all over her body. She later took more showers at home. Before the incident, [the human rights defender] had developed skin diseases such as scabies and dermatitis by reason of excessive exposure to tear gas. She has been a regular user of antibiotics from June to November 2019. The blue liquid worsened her conditions. She now

sometimes feels a sharp pain at her chest when she breathes. She has been taking other medicines regularly since this incident.<sup>95</sup>

The above examples of different methods to inflict pain and suffering upon humanitarian aid workers may amount to violations of Articles 6 and 7 of the ICCPR.

Further violations of Article 7 of the ICCPR may include:

*Hostile treatment aimed to punish humanitarian aid workers, for example:*

- A medical professional, a GP, testified that: ‘when we were on duty, we put on yellow reflective vests clearly marked with red or green crosses and words of “EMS” or “FIRST AID”, as well as helmets with red or green crosses on it. We were at the scene for the sole purpose of providing medical care to those wounded in the conflict. We remained neutral at all times and did not take part in slogan chanting and anything deemed provocative or siding with either party. There were numerous instances where we had to run away with protesters because of sudden police charging with batons, often with indiscriminate shooting at civilians, journalists and medical personnel with less-lethal weapons at close ranges, and thus rendering us unable to provide care on the field.’<sup>96</sup>

*Inhuman and degrading treatment, for example, the denial of access to period products<sup>97</sup> by female detainees and by allowing inappropriate physical contact:*

- ‘When [a first-aider] fell [over], an officer from the Police Public Relations Branch (“PPRB”) of the HKPF man with a blue vest suddenly dashed to [the first-aider]’s left side and tackled her on the ground without any prior warning. **He knocked over her helmet using a baton and drage[d] her on the ground by pulling her backpack and clothing. Her top was lifted, and her brassiere was revealed during the struggle. Her left back and waist was torn and injured as a result. She also felt that the male officer’s hand touched her and moved from her waist to her hip once. Although [the first-aider] was not resisting when she was captured by the police officer, another male officer hit her right leg and shoulder with a baton. One of the police officers removed her gas respirator and the sprayed the left side of her body with pepper spray. Her hands were then tied using a zip tie.**

‘The female police officer then took [the first-aider] to the crossroad, washed away some of the pepper spray on her body and detained her there. [The first-aider] was sent to the Yuen Long Police Station roughly about half an hour later...When [the first-aider] was taken to the police car, reporters around asked her to shout out her full name (i.e. a common practice for detainees to shout out their names in front of cameras in hope to alert their family or lawyers of their arrest and avoid going missing), yet a police officer aggressively covered her mouth and the others shouted back at the reporters and made fun of [the first-aider] name covering [her] voice. For example, one police officer teased at [the first-aider] and shouted at a reporter that she is “Tse On Kei” (i.e. a female pop star in Hong Kong). When she arrived at Yuen Long police station, [the first-aider] informed a duty officer that she was [a] first-aider. Her belongings were searched. As [the first-aider] was feeling unwell since she inhaled tear gas, she demanded to go to the hospital.

‘3-4 police officers then sat her down in a room and. **While she was waiting there, the police officers started verbally abusing her by accusing her as “cockroaches”**

**and retarded, swearing at her and claiming that she deserved to be arrested.**

After about 1 hour, an ambulance arrived, and [the first-aider] was sent to the hospital. Her wounds were attended in the Emergency Room and she was later transferred to another hospital. After admitting to the hospital, two police officers, one male and one female, were assigned to guard her. [The first-aider] was hospitalized for 3 days and 2 nights. **During the time she was staying in the hospital, her left hand was cuffed to the bed and the police officers denied her access for toilet and shower.** After repeated requests and enquiries on why she was denied access to toilets, a chamber pot was provided to her. **However, [the first-aider] was almost on her period, and she continued to demand access for toilet and provision of period products.**

**The police officers did not answer her requests and refused her family members from giving her period products when they visited her.** During the time [the first-aider] was hospitalised, HKPF tried to persuade her to [make] a statement without the presence of legal representative(s) by saying that it would take a very long time for a legal representative(s) to arrive and claiming that she did not need any legal advice when taking a statement. She refused despite the aforesaid degraded treatment and no statement was taken at the end.<sup>98</sup>

## 3.2.2. The Arrest and Detention of Humanitarian Aid Workers

The evidence obtained indicates that the rights of the arrested and detained humanitarian aid workers were not respected, contrary to Articles 9 and 10 of the ICCPR. This includes arbitrary arrests, no information about the reasons for their arrest and no information on their rights when arrested, the denial of access to counsel, etc. Indeed, the evidence obtained suggests that during the protests, it became very common for medical personnel to be arrested, despite them only providing medical assistance at the scene. Some of them were subsequently prosecuted for illegal assembly and even rioting.<sup>99</sup> ‘It was also common for first-aiders to be stopped and searched by police, detained on the spot and made to line up in a row for prolonged periods, questioned about their identity and qualifications, and called fake first-aiders without grounds. First-aiders were frequently subject to verbal abuse and pepper-spraying by police.’<sup>100</sup> According to the evidence obtained, such treatment was intended ‘to deter medical personnel from providing first aid at conflict zones and preclude people in need from accessing on-field emergency treatment.’<sup>101</sup> For example:

- ‘A first-aider was “handcuffed” by zip strap, there was no caution given by the police nor any reason explained to arrest him. He did not know he was arrested because [the policeman] has just told him “I will take you to leave here safely”. On the other hand, [policeman] when escorting has only talked about an SMS message that purportedly had been sent by the government to the public some time ago, indicating that everyone stays in PolyU campus and surroundings will be arrested and charged with riot no matter of his identity, occupation and purpose of staying there.’<sup>102</sup>
- ‘On 17th November 2019 at around 10 pm, I was arrested by the Hong Kong Police on Gascoigne Road. The Hong Kong Police was raiding the campus of Hong Kong Polytechnic University (PolyU) which is about 200 – 300 meters away from the place of my arrest. Before the arrest, I was walking along Gascoigne Road away from [the

PolyU], intending to go home. I had never behaved in any violent or disruptive manner before the arrest. I was dressed in casual wear with some first-aid instruments in my possession. **Although no force was used in the process of the arrest, both my hands were tied to my back with plastic straps. I was asked to sit on the ground together with a group of other arrestees in an open area for 1 – 2 hours.**

‘I feel it was an attempt of humiliation by the police towards the medical staff. When I was approached by the police, I told them that I was a doctor employed by a hospital and showed them my staff card. The staff card and my name card were later photocopied in the police station and kept in the police file. **A number of other medical staff who accompanied me also revealed their identities to the police. I was informed that I was arrested for the offence of “riot”...** After arriving at the police station, I (together with other arrestees) stood and waited at the car park in an open area for more than an hour before being brought indoors. **My hands were tied to my back with the plastic straps for altogether around 4 hours.** Whilst I was waiting, **I was never informed by the Hong Kong Police of my rights as a person being detained in police custody.** I was only allowed to make 1 phone call after repeated requests. Because of that, I could only inform my hospital of my absence from duty the late in the following morning. My hospital was only able to find a replacement later than the original clinic hours. The first aid equipment in my possession, my octopus card, mobile phone and my clothes were seized by the police following the arrest. To this date, my personal belongings have not been returned to me. I was detained for about 28 hours by the police. Despite the arrest for the offence of riot, I have not been charged with any offence.’<sup>103</sup>

- ‘At the material time, I was a holder of a valid First-Aid Practising Certificate. Because of the social movement, I was worried that many innocent students or civilian may be injured. As such, in the evening of 17th November 2019, I decided to go to [the PolyU] to help as a first-aider. To distinguish myself as a [first-aider], I wore a fluorescent jacket, a helmet with a cross and a full mask respirator to protect myself from teargas. When I arrived at the PolyU, I went straight to a room where first-aid supplies were stored and I stayed there for approximately 2 hours. Nothing remarkable happened and at around 8:00 pm, I decided to patrol around. Shortly thereafter, I tried to leave the campus with a group of 12-20 [first-aiders], but we were unable to leave as most of the roads were blocked. When we approached a gateway, there were police officers there.

**‘A few male [first-aiders] told the police we would like to leave but they refused to let us go.** As we could not leave, we had no choice but to walk around for about an hour to try to find a way out. Sometime after 9 pm, we received a message informing us that we may leave the PolyU at a particular building, so we tried to go to that building. Unfortunately, that passage was no longer usable. We then crossed the road and proceeded to another building. Whilst we were walking peacefully, we saw a number of police officers at footbridge nearby. They blinded us with their torch and I heard one of them shouted: “here is a group, we need to catch them”. Then we were asked to hold our hands up and not to move, for no particular reason. We did what we were told. Later on, another batch of police approached us and asked us to form a small group of three. They took video during the whole process and searched our bags.

**‘We cooperated and repeatedly told the police we are all first-aiders/doctor/nurse and only intended to help the injured. In fact, I specifically told the officer that I do**

**have a practising certificate as first-aiders, and the only thing they found on me was my first aid kit. The police ignored me and continued the search.** Nothing was seized from any of us. After the search, we were asked to put our hands behind us and our hands were tied up. We did not know why. Subsequently, **an officer told us that we were arrested for the alleged offence of riot.** I did not know the name or police number of that officer as he did not identify himself to us and did not show his warrant card. We were then asked to form several rows and were told to sit down on the floor, still with our hands tied at our back. **Another officer then came along and declared arrest at time 23xx for the alleged offence of riot.** I know who he was as he revealed his identity and the same was contained in the statement. We were sent to a big bus and arrived [at a] police station at around 00:30 the following day (i.e. 18th November 2019). **We were asked to stand at the car park for nearly 2 hours as they asked each of us to go inside the station,** one by one, to take a photocopy of our Hong Kong Identity Card and conduct another round of search at our bags. We were then asked to sit in the lobby of the police station and waited. **I waited for another 2 hours and sometime after 4 a.m., I was allowed to call my family and lawyer.**

‘After I made the call, I was told to enter a briefing room for a frisk search by a woman police officer. I was then directed to wait in a big area with several desks to take a statement. While I was waiting in the big area, I was asked to remove the fluorescent vest and show the police what was inside the vest (which contained only some first aid supplies). The police also seized my octopus card [stored-value contactless smart card used in Hong Kong] and mobile. I saw my lawyer at around 9 am that day. I was released on HK\$5,000 police bail at 22:00 on the same day. I did not receive any ill-treatment when I was detained. To put a long story short, I refused to accept further police bail and as at the time of this statement. I was not charged with any criminal offence. However, the seized properties have not yet been returned to me.’<sup>104</sup>

- On 17th November 2019, a nurse was arrested at the PolyU: ‘On 17th November 2019, I heard that there were many injuries at H[ong] K[ong] Polytechnic University (“PolyU”) and that [first-aiders] were required, so around 4 pm, I went to [PolyU] to help out. When I arrived [at] PolyU, I was stationed at one of the first aid stations. Around 7 pm, we received messages that it might not be too safe to stay so around 8 pm, I decided to leave PolyU with other [first-aiders] who were around at the time. As most of the exits at PolyU were blocked we joined other people and we had to walk around the various exits to find a way out. Eventually, we found a way out after 10 p.m. As we were walking out of PolyU, and walking underneath a flyover, 4-5 police officers on the flyover yelled at us and told us that we were being arrested.

‘At the time I was wearing a vest with “First Aid” printed at the back. They asked us to line up, 3 by 3 and asked us to walk over to where there were further police officers standing by. Guided by the police officers, we walked along a route, when we were asked to stop near a pedestrian tunnel. We were asked to line up. Then one by one, our hands were tied up and a video was taken of us, where we were being asked about our name and address. We had to show our HKID card. **I told the police officer that I was a medical professional and I showed my staff card at my workplace. As my hands were tied up, a police officer helped me take out and return my HKID card and staff card inside my bag. I was then asked to sit down on the side of the road together with the other persons being arrested.** Around 11:00 p.m., after videos were taken of all the arrested persons, we were asked to walk to a flyover. There were at least

40-50 arrested persons. Once everyone arrived at the flyover, a police officer, over a loudspeaker, gave his name and identified himself as a superintendent.

**‘Through the loudspeaker, the police superintendent told us that we were being arrested for rioting.** We were then asked to board on 2 coaches and once again we had to wait until all arrested persons boarded the coaches. By the time the coaches arrived at the police station, it was around 1 a.m. on 18 November 2019. At the police station, we were gathered at the car park and we had to wait there for a long time (around 2 hours). We were asked to stand there for the entire time and we were not allowed to talk. It was after 3 a.m. and we were asked to line up to enter the police station. Inside the police station, there was a large board. One by one, we gave our names, HKID number and occupation. All these personal details were marked on the board. We were then asked to wait inside the police station. After a while, my hands were finally untied and photos were taken of me. I was asked to put on the actual clothes I was wearing when I was arrested (and so I put on my first-aid vest) for the photo-taking. I was then asked to change to some grey coloured clothes. **All my clothes and personal belongings were taken from me but I was not given a reason for this.** I just complied. After a further wait, a female police officer took a statement from me.

**‘Before she took the statement, she told me that I was being arrested for rioting and cautioned me. I did not know that I could ask for a lawyer so when she asked me some questions, I simply told her that I had nothing to say.** She asked me about my occupation again. I told her that she should know my occupation as they wrote that down on the board. So she wrote down “nurse” as my occupation on the statement. After writing out her questions and my answers, I saw her signing her name against each of the questions. She then asked me to sign against each of my answers. **After signing against 1-2 questions, I then sensed that something was not right, so I asked if I could see a lawyer. The police officer then said: “why do you raise this at such a late stage? We will arrange this later.” She then asked me to sign my name against the rest of the questions and to sign the statement.** As I did not know better, I just complied. I was later allowed to call my family around 5:45 am and around 11 am, I was sent to the detention room inside the police station. During lunchtime, whilst I was having lunch, I finally saw my lawyer. This was around 1:00 p.m. on 18 November 2019. I stayed in the detention room until around 4:00 a.m. on 19 November 2019 when I was released on bail. My personal belongings that had been confiscated were not returned to me and again, I was not given a reason for this.<sup>105</sup>

- ‘In the late afternoon of 17th November 2019, I was at the Hong Kong Polytechnic University [...] At around 8 pm, my medical teammates and I attempted to leave the campus, which was fully cordoned off by the police. However, we were prevented by the police from leaving the site, despite showing our credentials as medical workers. We stayed at a pedestrian zone near the campus until 9:30 pm when the police announced that those who wished to leave should do so via a designated exit point. We moved along to the designated point together with some reporters. However, we were then apprehended by a group of heavily armed riot police, who hurled verbal abuses at us (such as calling us “fake medics” and “fake journalists”). We were ordered by the police to put our hands up in the air and wait to be searched.

**‘Despite showing my medical credentials, and my bag of first-aid equipment, the riot police ordered us to sit down in a group and handcuffed us tightly, which**

**caused numbness and pain to our hands. After approximately 2 hours of being kept on the ground and handcuffed in this manner, a police coach arrived. The police informed us that we were being arrested on suspicion of “rioting”** (a serious offence in Hong Kong which can be punished by up to 10 years imprisonment). We were then moved onto the coach and transported to a police station. After arriving at the police station, we were made to stand – still handcuffed – in the parking lot of the police station, before being moved inside the police station for processing. In total, I was handcuffed continuously for 4 to 5 hours. My lawyer arrived at the station shortly after, and a statement was taken (in which I invoked my right to remain silent). Fingerprints and photographs were taken (including some police officers using their private mobile phone to take photographs); then my clothing and belongings were thoroughly searched, itemised, and seized. At the police station, I was kept in a detention cell with 8 other persons who had been arrested at the same time, including journalists and other voluntary first-aiders. We were given food and water but were denied the right to contact family members. **After a total of 28 hours in custody, I was released on bail with the assistance of my lawyer. I have not been formally charged to date; however, my belongings (including all my first-aid equipment) are still being kept in police custody for further investigation.**<sup>106</sup>

- On 17th November 2019, ‘At around 8pm, with the campus fully cordoned off by the police, my medical teammates and I attempted to leave. However, we were prevented from doing so by the police, even though we tried to show our medical credentials. We tried to find different paths to exit the campus, and we stayed at a pedestrian zone near the campus until 9:30pm. At that time, the police announced that those who wished to leave should do so via a designated exit path. This piece of the announcement was reported by different news media. We received such notice and so we walked to the designated point together with some reporters. **However, we were then apprehended by a group of heavily armed riot police, who launched verbal abuse at us, calling us “fake medics” and “fake journalists” – even though we were, at all times, wearing our coloured vests which explicitly identified us as medics. We were ordered to put up our hands in the air while waiting to be searched.** Despite showing my professional credentials and my firstaid equipment, my teammates and I were ordered by the police to say our name, identity card number, and home address in front of the police’s video recorder.

**‘We were then made to sit on the ground while being handcuffed tightly. After 2 hours, a police coach arrived and we were informed that we were being arrested on suspicion of “rioting”** (a very serious offence carrying a maximum sentence of 10 years’ imprisonment). We were moved to the coach and transported to a police station. After arriving at the police station, we were made to stand—still handcuffed—in the parking lot for another 2 hours before being moved indoors for processing. **I was handcuffed for a total of 6 hours, which caused pain and numbness in my hands, as well as bruises over both of my wrists.** Police took photographs of me and my belongings (I note that some police officers used their personal mobile phones to photograph me). My fingerprints were taken. My clothing and belongings were thoroughly searched, inventoried, and then seized. After my lawyer arrived at the police station, I made a statement in which I invoked my right to remain silent. At the police station, I was kept in a detention cell with 9 other persons who had been arrested at the same time at [PolyU]; all of us were medical volunteers. We were given food and water but we were denied the right to contact family members. **After a total of 28**

**hours in custody, I was released on bail with the assistance of my lawyer.** As of now, I have not been formally charged. However, my personal belongings (including my mobile phone, medical equipment, and clothing) have not been returned to me, on the purported basis that they are needed for the police's investigation.<sup>107</sup>

- ‘On the night of November 17th, 2019, I was embedded within one of a few medical teams providing emergency care to injured protesters engaged in a violent confrontation with police at the Hong Kong Polytechnic University. **All emergency medical workers were wearing high-visibility vests with prominent Red Cross insignia, helmets with Red Cross markings, gas masks, and air-tight eye protection (the latter two measures against the large amounts of tear gas customarily encountered in these protests).** Around 20:30 that evening, police issued an announcement that at 22:00 the protest would be labelled a riot and that any person present within the university building complex after that time would be arrested for rioting (for which the punishment upon conviction is up to 10 years imprisonment). Furthermore, police later broadcast their intention to enter the university premises by force, using deadly means if necessary, and that all persons present (with the exception of credentialed journalists) would be subject to arrest. A designated route for exit was promulgated at about 21:30.

**‘There was discussion among the medical teams, and it was decided that those with hospital-based specialities (surgery, anaesthesia, operating department nursing) should depart to be stationed in casualty receiving hospitals and that the other emergency medical providers, nurses, and paramedic first-aiders would remain on site.** My team successfully departed the campus, changed into civilian clothing, and made their way to the hospital. We subsequently learned that a group following us (comprising doctors, nurses and paramedics) had been arrested at the police cordon line after leaving the campus. A photograph, widely circulated online [and featured on the front cover of this inquiry report], shows at least 16 individuals sitting on the ground with their hands bound behind their backs with zip-cords: they are wearing high-visibility vests with descriptions of Doctor, Nurse, and EMT (emergency medical technician). These people were all arrested for [allegedly] taking part in a riot. **Police subsequently assaulted the campus at about 05:30. At least one doctor who was actively providing medical care to a casualty was arrested...** When questioned about the arrest of medical aid workers at a press conference on the evening of November 18th, 2019, police asserted that they had intelligence that rioters were masquerading as doctors (and first-aiders) and therefore these people had to be arrested so as to confirm their identity. **This is doubtful since all doctors were in possession of their Medical Council of Hong Kong registration details and identity cards. At least five doctors are known to have been arrested and detained by police for more than 24 hours. The police also misleadingly claimed they had invited the Red Cross intervention (Head of Operations of the Hong Kong Red Cross, personal communication).**<sup>108</sup>

China's letter of response to the UN asserted that those arrested that day were only those who self-identified as first-aiders.<sup>109</sup> The above statements challenge this assertion. Hence the issue needs to be investigated further.

## 3.2.3. The Denial of Health Care to Injured Protesters

The evidence obtained by the APPG on Hong Kong is indicative of a violation of Article 12 ICESCR, right to health, by way of the Hong Kong police preventing humanitarian workers from providing medical care to those injured, denying them medical treatment, delaying it or neglecting some of the needs of those injured. For example:

- On 27th October 2019, a first-aider attended a protest scene in a team of six first-aiders. According to the first-aider: ‘A stout figure arrestee who was being suppressed had been vomiting transparent liquid. [The first-aider] and his team learned from the arrestee’s friend that the arrestee was suspected to have cardiac disease. Except [the first-aider] and his teammates, it is understood that there was also a hospital doctor at the scene. **As vomiting transparent liquid, which is usually water, could be an indication of spinal cord injury, [the first-aider] and his teammates thus attempted to seek permission to render first-aid treatment for the arrestee. According to [the first-aider], the police officer did not look at the first-aid cards they presented, instead, the police officer rejected their request and reverted in Cantonese “I cannot verify your identity”. [The first-aider] then informed the police officer about the presence of the hospital doctor yet such information had been completely ignored.**’<sup>110</sup>
- ‘On 18th November 2019, at or around 9:00 am, [a first-aider] went to the Polytechnic University which was under siege during violent clashes between protesters and police. **Upon his arrival at the scene, [the first-aider] showed his staff ID card and requested access to the campus to provide assistance. Yet, his request was rejected by the police who told him that, “they were all criminals inside the campus, you will become a criminal if you go in as well” (in Chinese: “入面全部都是犯,如果你入去你也是犯”).**’<sup>111</sup>
- ‘**Emergency on-field medical treatment of the wounded and the sick were frequently denied by police.** For instance, on August 31st, 2019, police charged into Prince Edward metro station and indiscriminately pepper-sprayed and beat up civilians inside. It was reported people sustained head contusions and lacerations, and some lost consciousness. **The station and the neighbouring Yau Ma Tei station were sealed off and first-aiders were denied entry to provide emergency care** even when one kneeled down at the locked Yau Ma Tei station entrance, cried and pleaded for entry. Three first-aiders inside were required by **police to stand still and face the wall, denying them the approach to the injured. When the ambulance arrived at Prince Edward station, ambulance men were told by police that there were no casualties inside the station and they were also denied entry.**’<sup>112</sup>
- A firefighter testified that ‘**I need not mention how the police refuse first-aider and even ambulancemen from entering a metro station where countless protestors as well as pedestrians were brutally beaten by them on the 31st of August. Nor the tragic fact that a first-aider was shot in the eye with a bean bag round to cause**

**permanent loss of eyesight on the 11th of August. Not to mention doctors, nurses, and first-aiders were arrested and charged with Riot (Sec. 19 of Cap. 245) on the 18th of November. Last but not least, one Hong Kong citizen died because of the obstruction of rescue by the police.**<sup>113</sup>

- ‘A member of riot police in unusual frenzy dispersed people who tried to find out the condition of a girl already subdued on the ground. Citizens at the scene pleaded reasonable, non-violent treatment of the girl. The girl, possibly having difficulty in breathing and great panic, extended her hand to a riot police officer’s foot for help. He trampled on her hand, causing her to scream in pain. **First-aiders tried to get closed to treat her wounded hand but were stopped by the police. The girl was taken to a police station.**’<sup>114</sup>
- **‘A reporter was pepper-sprayed, but the police stopped the first-aiders from tending to him. The reporter was arrested for a time, but released on a commander’s order afterwards.’**<sup>115</sup>
- ‘On 19 November 2019, at or about 1:00 am, [the first-aiders] was providing assistance in Jordan when he alerted a medical emergency. He saw an arrested first-aiders with abnormal, waddling gait/duck-like walking. [The first-aiders] suspected that the first-aiders was experiencing bone fracture or ankle twist. **[The first-aiders] therefore approached the seemingly injured first-aiders and asked the arresting police officer if he can check his medical condition. The request was refused by the arresting officer who told [the first-aiders], “as he is now being arrested, you cannot treat him”.**’<sup>116</sup>
- **‘A large number of Police escorted those injured protesters in the hospital. Doctors and nurses working there reported that the Police have tried to disrupt the clinical care they provided to the admitted injured protesters.** Firstly, the police stopped the staff to inform families of the protesters about hospital admission. Moreover, the police insisted on staying and witnessing the consultation, physical examination, and even go into the operating theatre during the operation. Our colleagues have explained to the police that patients’ rights and privacy must be protected and declined all those unreasonable requests. **The police then intimidated them by the risk of breaking the law, asked for their personal information, included name, position, and even Hong Kong identity card number.**<sup>117</sup>

‘The incident in North District Hospital was not an isolated case; health care workers of Hong Kong public hospitals have strived to ensure the protection of protesters’ privacy and the smooth operation of services for admitted protesters. **On 7th October 2019, a nine-months pregnant woman was arrested in Tuen Mun, and she requested to be sent to the hospital as she showed signs that she was in labour. The police first rejected it, and she was sent to the maternity ward of Tuen Mun Hospital later. While she was putting on a patient gown and preparing to be checked, a male officer entered the maternity ward despite an attempt by medical staff members to block his access. The reason for the male officer getting in was asking the pregnant woman’s personal detail. Men are not allowed to get into the maternity ward except partners of the labouring women because the ward is usually shared by women in labour and undergoing various kind of procedures.** Local media have reported that incident, the HKPF first denied it but later admitted it. Besides getting in a maternity ward, patients, hospital visitors, and health care workers have been

disturbed by certain behaviours of the police inside hospitals. Communication between the management teams of Hospital Authority and the HKPF has been taken place over months, but no improvement has been observed. On 5th October 2019, a group of armed riot policemen entering the Tuen Mun Hospital overnight, which was likely related to a teen who was shot by an off-duty police officer during a clash in Tuen Mun overnight [and] was moved to the hospital for surgery. They cordoned off part of the hospital public area and shouted at uniformed hospital staff when they tried to get to work.

**‘The police have ignored the arrested protesters’ medical needs, our colleagues have often found dehydration, fever, and poor general condition in protesters sent to the emergency room by the Police.** Moreover, the police have not paid attention to individuals with a special medical need. **A pregnant woman was arrested while pasting up protest posters in Tin Shui Wai on 30th October 2019 for suspicion of criminal damage. She was only sent to the hospital four hours after she vomited.** Stampede followed serious clashes between police and antigovernment protesters along Nathan Road, Yau Ma Tei on 18th November 2010. According to the reply of the Hospital Authority to Hong Kong lawmaker, Claudia Mo, 45 were injured, and 10 of them were severe. **First-Aiders on the site revealed that the police have forbidden them from assessing wounded protesters. The first injured protester arrived at the hospital, which is a 10-minute walk from the site, one hour later. The last injured protester arrived at the hospital, which is 30 minute-drive from the site, 5 hours later.**<sup>118</sup>

- An interviewee described, after the police attack, ‘the police did not arrange medical treatment for people with a head injury caused by police batons. Other passengers attempted to help stop the bleeding but failed. At least two injured individuals showed signs of losing consciousness, including being unable to provide a verbal response to other passengers’ questions’.<sup>119</sup>
- An interviewee who was detained at Kwai Chung Police Station saw another arrestee who was ‘pale and trembling but was not arranged to receive medical care all along. Only when another arrestee made repeated request for that arrestee to be sent to a hospital did the police make an arrangement, after another 30 minutes. It is suspected that the police retaliated against the arrestee who made the request for the injured arrestee by providing extremely hot water when he/she requested water.’<sup>120 121</sup>
- ‘On June 2019, Police arrested five protesters in public hospitals as they were being treated. Hong Kong’s medical sector lawmaker has said that he has proof that **Police can access the Hospital Authority’s system to check details of injured protesters who were admitted into the public hospital system, without using any unique logins. After that, protesters have avoided seeking medical care at public hospitals unless they have had a life-threatening condition or have been arrested by the Police.** On 11th August 2019, protesters defied police bans, descending upon multiple districts, many people were arrested in police clearance operations. Some arrestees were wounded heavily, and some were brought to the San Uk Ling Holding Centre near Lo Wu, close to the Chinese border. **Some arrested protesters were sent to a public hospital close to the Holding Centre, North District Hospital, on 12th August 2019, more than 10 hours after they were arrested.** Some of them have had multiple bruises, some of them have fractures of limbs that required surgery, and some of them have a head injury.’<sup>122</sup>

China's letter of response to the UN asserted that the injured protesters were provided with adequate medical assistance.<sup>123</sup> The above statements challenge this assertion. Hence the issue needs to be investigated further.

*The evidence presented in this section indicates that the HKPF's treatment of humanitarian aid workers was in breach of international standards in Article 6 (the right to life), Article 7 (the right to be free from torture or cruel, inhuman or degrading treatment or punishment), Article 9 (right to liberty and security of person), and Article 10 (the right to humane treatment when deprived of their liberty) of the ICCPR (International Covenant on Civil and Political Rights) and Article 12 (the right to health) of the ICESCR (International Covenant on Economic, Social and Cultural Rights).*

## 3.3. The Sino-British Joint Declaration

On 19 December 1984, the UK Government and the Government of the People's Republic of China (PRC) signed The Sino-British Joint Declaration on the Question of Hong Kong (the Sino-British Joint Declaration) establishing the principle of 'One Country, Two Systems' and placing the Hong Kong Special Administrative Region directly under the authority of the PRC but enjoying a high degree of autonomy, its social and economic systems and lifestyle (for 50 years).

The Sino-British Joint Declaration is a legally binding treaty. The agreement entered into force on 27 May 1985. On 12 June 1985, both parties registered it at the UN. On 1 July 1997, the UK transferred sovereignty over Hong Kong to the PRC and Hong Kong became the Special Administrative Region of the PRC.

The Sino-British Joint Declaration states that:



The current social and economic systems in Hong Kong will remain unchanged, and so will the lifestyle. Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and religious belief, will be ensured by law in the Hong Kong Special Administrative Region. Private property, ownership of enterprises, legitimate right of inheritance and foreign investment will be protected by law. ]

As the UK Government emphasised: 'The Sino-British Joint Declaration is a legally binding treaty, registered with the UN that remains in force. We believe that the **UK has an obligation and a right to monitor its implementation closely, and we are strongly committed to doing so.**<sup>124</sup> In line with this assurance, the inquiry considers whether the Hong Kong police's treatment of humanitarian workers infringed any of the civil, political, economic, social, or cultural rights of Hongkongers and so in breach of the rights stipulated in the Joint Declaration and, if so, how the UK Government ought to respond.

As Article 3(5) of the Sino-British Joint Declaration guarantees protection to the rights and freedoms of Hong Kong people, any actions of the Hong Kong Police that violate those rights are contrary to the letter and spirit of the Sino-British Joint Declaration.

*The treatment of humanitarian aid workers identified in the above sections makes a strong case that the rights and freedoms stipulated by the Sino-British Joint Declaration were violated.*

In early July 2020, European Parliament's Conference of Presidents issued a statement of concern about the situation in Hong Kong. It stated that, 'On 30th June, the Standing Committee of China's National People's Congress adopted the National Security Law in Hong Kong, which came into effect that day, the 23rd anniversary of the city's handover to China from British rule. Under the law approved by mainland China's legislature in May, Beijing will have sweeping new powers to impose sentences, including life imprisonment. This represents a direct assault on the city's high degree of autonomy and runs contrary to the freedoms that were guaranteed under the "one country, two systems" principle, and is, furthermore, in violation of the Sino-British Joint Declaration and the International Covenant on Civil and Political Rights.'<sup>125</sup>

On 14 July 2020, President Trump signed into law House Resolution 7440, the Hong Kong Autonomy Act to 'addresses China's failure to meet certain obligations under the Sino-British Joint Declaration.'<sup>126</sup>

## 3.4. The Growing Atmosphere of Impunity

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The above identified violations manifest the need for investigations and accountability. However, the current evidence suggests that neither such investigations nor steps to hold the police officers accountable are likely to proceed. Without such investigations and/or accountability, it will not be possible to substantiate the authorities' claims that no human rights violations are being perpetrated, nor is it possible to identify whether such violations are widespread and systemic or a matter of 'a few bad apples.'

Furthermore, while there appears to be a growing atmosphere of impunity for the human rights violations perpetrated by the members of the HKPF, there is a high risk that the humanitarian aid workers who have been providing medical assistance to the protesters will face prosecutions in the future. Indeed, as the evidence makes it clear, many of them have been arrested, charged and await further steps. This concern is further substantiated by the fact that in the aftermath of the 2014 Umbrella Movement, prominent non-violent protesters were prosecuted for 'public nuisance' years after the protests.<sup>127</sup> Again, as the new security laws came into force, the high risk of abuse of the already vague provisions is putting into question the future of the humanitarian aid workers providing care to the protesters.

## 4. Conclusion

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The evidence obtained by the APPG on Hong Kong for the purpose of this inquiry makes a clear and indisputable case that the HKPF has breached international humanitarian law and principles, international human rights, and the Sino-British Joint Declaration alike. While each case would need to be considered separately and on its own merits, the obtained information strongly indicates that:

- Humanitarian aid workers have been subjected to a variety of treatment that fell short of international humanitarian law and principles, international human rights and the Sino-British Joint Declaration, and included intimidation, harassments, threats, physical violence, and arrests.
- Among humanitarian aid workers, the first-aiders appear to have been the main group subjected to such treatment, however, doctors and nurses have not been spared.
- This treatment has had a profound effect on the humanitarian aid workers who have suffered physical and psychological injuries.
- This treatment has affected their ability to provide medical assistance to injured protesters.
- There is no evidence to suggest that the humanitarian aid workers were involved in the hostilities thereby justifying the HKPF stripping them of the protections otherwise available to humanitarian aid workers.
- The HKPF's treatment of the humanitarian aid workers and their interference in the hospital resulted in the injured protesters not receiving the required medical care in time or at all, and affected the medical care of the population in general, due to the ever-growing lack of trust in the hospitals' independence and confidentiality.

When the APPG launched this inquiry, the recent protest movement in Hong Kong had already been underway for 10 months. Reflecting upon the written evidence gathered, and considered first-hand accounts from humanitarian workers, medical professionals, academic experts, a retired police officer and internationally respected journalists on the front-line during this inquiry's oral evidence sessions, it is clear that since these protests began, the HKPF has abused its unique position as protectors of the people of Hong Kong, and has acted with indiscriminate aggression towards protestors and humanitarian workers alike.

It should not need to be said, but for the avoidance of doubt, we deplore the use of violence from wherever it originates, including acts of violence directed at police officers.

We conclude without reasonable doubt that humanitarian workers have been subjected to the unwarranted infliction of pain and suffering, unlawful and prolonged arrests and detentions, the denial of the ability to provide healthcare to the injured and psychological damage at the hands of the HKPF.

Not only is this a fundamental violation of the international treaties and human rights laws laid out throughout this report, but also people expressing a desire for democratic rights and self-determination, in accordance with international norms and rights and promises made to the people of Hong Kong in 1997.

The UK government has a unique responsibility to the citizens of Hong Kong, both as the only other signatory to the Sino-British Joint Declaration, but also as a leading champion of human rights in the international community. The APPG on Hong Kong has therefore set out the recommendations which follow and urges the British Government to give them serious and careful consideration.

The purpose of these recommendations is to ensure that the UK upholds its responsibility to the citizens of Hong Kong, during the most challenging time in its recent history. The UK must lead efforts to protect Hongkongers by utilising the resources at its disposal to challenge the unlawful actions of the HKPF identified throughout this report. The UK must also ensure that those found to be responsible for human rights violations are held to account.

The UK has a further responsibility, as does the international community, to stand up for and protect internationally recognized symbols that can keep humanitarian workers safe in situations of armed and civil conflict around the world.

## 5. Recommendations

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The evidence submitted to the APPG on Hong Kong may well represent only a small sample of the available evidence and for this reason we believe that an independent and comprehensive inquiry should be established to subject these events to greater scrutiny. We recommend that:

- The UK lead the efforts to establish an independent mechanism to investigate Hong Kong, for example:
  - At the UN Human Rights Council (or the UN General Assembly) to establish an investigative mechanism to consider the situation in Hong Kong, and if not possible.
  - Work with the International Bar Association to establish a comprehensive and independent inquiry.
- The UK should engage in a dialogue with Hong Kong authorities to assist the UN inquires on the issue.
- The UK should urgently impose Magnitsky-style sanctions on those responsible for permitting the excessive police violence at high level in the administration, including but not limited to Chief Executive Carrie Lam and the Chief Police Officer.
- The UK should ensure that its bold and encouraging British National (Overseas) citizenship immigration policies, designed to protect Hongkongers and adhere to the UK's responsibilities under the Joint Declaration, are not applicable to those who have encouraged/endorsed the National Security Law, or who have encouraged, supported or condoned police violence.
- The UK should offer to provide capacity-building assistance to the Hong Kong authorities to:
  - Ensure that the independent mechanism for lodging complaints is comprehensive and able to conduct its work independently and effectively.
  - Strengthen the human rights training to all police officers responding to protests.
- The UK should offer to work with Hong Kong authorities to strengthen the human rights protections of all in Hong Kong, as stipulated in the Sino-British Joint Declaration.
- The UK should explore whether the targeted humanitarian aid workers fall within the purview of the Refugee Convention and consider how they could best be assisted.

## 6. Further Reflections

As Dr. Mann commented during the oral hearing, ‘the safe space for humanitarians working in Hong Kong is shrinking and the general climate of the health sector is cooling. The [Hong Kong] government[‘s] actions have really served to circumscribe the health space, and to deny it for those of a political view, those that have taken to the streets in defence of their civil and political rights and a desire for greater engagement in participatory governance. The [Hong Kong government’s] response to that, I believe, has been political intolerance, aggressive police posturing, and abuses of the spirit of international humanitarian law.’<sup>128</sup> Mann’s statement makes it clear that the issues discussed in this report as pertaining to the situation of humanitarian aid workers are far-reaching and not exclusive to humanitarian aid workers.

Following the launch of this Inquiry we received significant evidence which falls outside the scope of this Inquiry’s mandate. Here we briefly list some examples which deserve further attention.

### *Violation of basic human rights of protesters and others*

Darren Mann made some particularly interesting remarks regarding the HKPF’s continuous and clear violation of the basic human rights of protesters and others. While this falls out of the scope of this inquiry, his remarks are significant and serious enough to warrant the space and platform they deserve. Dr. Mann stated that:



The Hong Kong populace is a very perceptive and engaged civil society... there is a genuine awareness in Hong Kong now that their way of life, and the liberties that they’ve enjoyed up to this point are more than threatened and endangered. They are actually being eroded and effaced. I think it’s clear, for example, from the results of elections, especially district council elections, where the entire population is permitted to vote... Approximately two thirds of the population support a greater role in participatory governance and protection of civil liberties... There are genuine fears, though, for social monitoring, and for consequences you imagine. Many of those people have families that are still in mainland China. How inclined will they be to speak out? I’ll give you one clear example close to my own experience, doctors who were arrested performing volunteer medical duties, and those arrests have been identified by the United Nations as unlawful arrest and detention. Those doctors are fearful of pursuing their legitimate legal recourse to challenge the lawfulness of that arrest. They are concerned that the Hong Kong Police may either plant evidence on the clothing and mobile phones that they confiscated at the time, or the members of their extended families will face intimidation and retributive consequences in the future... the vast majority of the public are well informed and engaged with this matter. But for reasons that we can all understand a smaller number feel willing to speak out and an even smaller number are willing to demonstrate physically. <sup>129</sup>

Another witness similarly noted:



My friend was visiting Hong Kong. I said it should be safe if we go out here. We go into a restaurant. **We were in a side street. An armoured vehicle drives along Nathan Road and fires into a neighbourhood. There are no protesters there. They're just simply citizens and people going [about their] business. Everyone in that restaurant was on their knees choking.**

'It's certainly not to protect the people. It's certainly not to serve the people. When you're firing that amount of tear gas into a neighbourhood... **The evidence is that the people from all walks of life out there demanding that the police go away, they causing problems and that I'm not gonna use the word terror. They're seen as triads. They're seen as being colluding with organised crime.**'<sup>130</sup>

### *The use of excessive force against the protesters*

The evidence received is indicative of the excessive use force. The issue has been considered by the UN. On this occasion, the UN identified evidence of law enforcement officials deploying less-lethal weapons in ways that are prohibited by international norms and standards, including firing tear gas canisters into crowded, enclosed areas and firing tear gas canisters directly at individual protesters and on multiple occasions.<sup>131</sup>

One of the witnesses, who was a journalist, testified that:

**'On most occasions [the] police didn't discriminate between protesters or the general public or press or first-aiders...** the constant use of tear gas in areas like Mong Kok and Wong Tai Sing just daily areas with narrow streets and tiny apartments and population densities of more than 40,000 people per square kilometre meant anybody in this area was badly affected by tear gas, whether they're inside or outside. And it really is the firing of projectiles which included live rounds. **Pedestrians and people in shops and restaurants were frequently affected by these police actions.** I began to carry bottles of saline solution to administer to people badly affected by tear gas in the street, because I just saw too many people are affected badly, often elderly, homeless or just people in the wrong place at the wrong time that were most affected.

**'The use of tear gas and these occasions seemed not to be to remove protesters from an area, but rather to create chaos, fear and resentment amongst residents, to attempt the most disturbing incident. I witnessed on October 31, when I assisted a family with clearing the eyes of their six-month-old child that have been affected.**

'On the subject of policing and the treatment of people while arresting people, the use of violence in these situations will be close to torture in the sense that sitting on chests, bending of limbs, use a pepper spray at close range...

‘To be tear gassed is to cause panic. That’s what it’s for. It shouldn’t be used in confined spaces. We saw the tragic situation of young men dying in a car park... I’ve had my own experience with tear gas. It is truly frightening in that you feel like you can’t breathe, you can’t see.

‘So you know my experience talking to those people who had been arrested and detained is that they have treated you violently ... and then kept in temporary facilities at times that just fall below what are the standards ... made you sit on plastic chairs outside in car parks for four days... for two days systematic humiliation as well... the people arrested that I speak to, there’s a sense of unfairness in the charges that they face and a suggestion that they charged on ... attempt to maliciously wound.’<sup>132</sup>

Dr. Mann states that:



The police actions really were not compatible with the sense of precaution that is needed in law enforcement... Violence in civic protest is to be deplored and the consequences are injuries to protesters to law enforcement to bystanders completely regrettable. Unfortunately, it is sometimes unavoidable and may even be provoked, and we can understand the human sentiments that are involved.

‘The policing of wide scale violent disorders is extremely challenging and demands the highest standards of professionalism from the police, even when their own personal safety is jeopardized... But there can be attitudes of policing that are seen to be more aggressive or provocative that can actually provoke the very actions that they’re seeking to avoid. Importantly, our police actions, although they may have a lawful and legitimate law enforcement objective, they must also be devised with some important contentions in mind.

‘First precaution - do not exacerbate hostilities, do not provoke a violent response when violence was previously absent. And in all of your planning, ensure that preparations are made to either minimize the number of injuries that result and to prepare to treat and evacuate those that are injured. Regrettably, independent observers have identified that the Hong Kong Police have failed in these responsibilities. They have for example, used tear gas to disperse peaceful assemblies. In so doing, they have inflamed those peaceful protesters and what’s more, they have endangered their lives by inadequately preparing and identifying a route for dispersal... The protesters may resort to violence when they are corralled into a physical setting from which they cannot escape, but their conduct has been peaceful, and now they find themselves subjected to tear gas.’<sup>133</sup>

According to a witness testimony justifying the actions of the police:

'The Hong Kong Police have used the smoke, commonly known as tear gas, which is non-lethal, pepper spray which is non-lethal and water cannon which is also non-lethal. The militants have used petrol bombs, which are lethal, metal bars frequently sharpened to a point, which are lethal, missiles such as bricks and paving stones, which are lethal, crossbows, which are lethal and barbaric shot from high powered slingshots, all of which are lethal. Now, in November, they were clashes in several universities and police came under sustained attack from federal bombs. And in fact, in the Hong Kong Chinese University, the police found stockpile...

'Standoff lasted till the 18th of November, when police aided by the fire service department searched accomplish where they found nearly 4000 petrol pumps, over 1300 explosive items, over 600 bottles of corrosive fluid and 573 offensive weapons, all of which were deadly. The estimated repair costs these could reach 700 million Hong Kong dollars or about 77 million pounds. The Polytechnic police arrested 1600 people and fewer than 50 of them were Polytechnic students. Now, the militants have described their actions as leaderless and spontaneous. However, they have sophisticated operational organizational skills. They sourced protective equipment and other equipment from overseas. Imported, stored and distributed using teams of logistical workers when disturbances are coordinated, to ensure even distribution and activists arriving at predetermined locations, all at the same time... They have a skilled PR organization that reaches out to mainstream press, both locally and overseas. And they have political liaison teams ... engaging with parliamentary and legislative bodies worldwide. Now, in conclusion, Hong Kong is now suffering the most serious disturbances since the riots in 1967... the Hong Kong Police has responded consistently with non-lethal levels of force.<sup>134</sup>

Commenting upon the allegations of Dr Mann, as identified in the Lancet, he added that:

**'The allegation made by Dr Mann are very much one sided and untrue. They are untrue in as much as the suggestion that the action was inappropriate.** The situation in the Polytechnic was that on the 13th of November, Dr. Mann and about 1000 others acted as trespassers. They set about preparing defences with deadly weapons, with long bows crossbows, with petrol bombs. They looted the stores to take out corrosive liquids and then prepared to defend place against the police with that. Now, when you start loading your defences for these kinds of deadly weapons, you're not trying to disperse the police, you're trying to kill police officers. If people did not care whether their weapons would kill police officers, and they became so alarmed, the university administration and so on they told people not to go and read the relevant legislation. When persons assemble together, conduct themselves in a disorderly, intimidating, insulting, or provocative manor intended or likely to cause a person to reasonably fear that the person... will provoke or cause others to breach peace, then they are unlawful.'<sup>135</sup>

The issue will need to be considered further.

## Attacks on journalists

Although again this falls outside of this report's remit, the evidence obtained indicates that the HKPF were targeting journalists.

One witness explains:

**'On many occasions police would fire a few rounds directly at these groups with yellow vests on it clearly showing that we were press** and first aid ... harass anyone wearing a vest, shine high powered lasers into the eyes, stop them from filming, stop and search for accreditation and just use abusive language.

**'We saw threatened with tear gas and tear gas fired directly at us. It doesn't get much more direct than being fired upon and threatened.**

'When I first went to Hong Kong, my first experience with the Hong Kong police was as my house was broken into once and I reported a break in. And it was just a pleasant interaction... And I would say that my experience breached across the occupy protests of 2014. And what we saw, from the start of 2014 through other unrest in 2016, up until these protests, is a clear progression, an escalation of aggression.

'You really need to find that point in 2014 as being the moment to which things start to change in the nature of the policing from Hong Kong, that was really that day in 2014, when there was tear gas .... was shocking everybody. This was like a sharp escalation at that point. But it continued to progress... To me the actions didn't match the protest.

**'Because there is no accountability or transparency it reminds me the Stanford experiment where the university students were given the power and then they just lost their minds. It feels like this to me.** You know, it feels like that could explain the level of the complete disrespect for protesters.

'I've had my own journey to go on with post-traumatic stress disorder. Anyone who is there is suffering from post-traumatic stress disorder and it's not nice. The young people of Hong Kong, those who I feel for most of, all traumatised. At a key age where they should be off to university, they should be furthering their study, there should be full of dreams and hopes and yet we're saying 8,000, I think maybe more now, arrested, a third of them under a day. This is really as a generation stolen, you know, and altered forever... They're standing in the street to say we want democratic rights. And you take someone's life from 18 to 25 and put them in jail. This this is this is a big thing to come back from, and the trauma.<sup>136</sup>

# Appendix A

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## *In relation to humanitarian principles:*

- Did the police officers treat humanitarian aid workers humanely?
- Were the actions of the police officers proportional to the threat posed by medical and humanitarian workers?
- Did Hong Kong police officers make a distinction between those they considered 'combatants' and of a threat to public order and humanitarian aid workers?
- Was the use of any force by the police officers necessary?
- Did the actions of the Hong Kong police violate the spirit or letter of Article 11 of the Geneva Convention (Protocol II) which guarantees the protection and respect of medical units?

## *In relation to international human rights law:*

- Did the actions of the Hong Kong police in dealing with humanitarian aid workers infringe on any of the civil, political, economic, social, or cultural rights of Hongkongers as outlined in the international covenants and committed to in both Hong Kong Basic Law and the Joint Declaration?
- Did the Hong Kong police violate the International Covenant on Civil and Political Rights and Hong Kong's own Bill of Rights when they arrested humanitarian aid workers?
- Did the Hong Kong police violate the International Covenant on Civil and Political Rights and Hong Kong's own Bill of Rights by violating the rights of the humanitarian aid workers when they detained them arbitrarily?
- Did Hong Kong police deny protesters and other Hongkongers vital medical treatment and in the process, did they violate the right of protesters to humane treatment?

## *In relation to the Sino-British Joint Declaration and Hong Kong's Basic Law:*

- Do the actions of the Hong Kong Police Force constitute a breach of the Sino-British Joint Declaration?

# Appendix B

## *International Covenant on Civil and Political Rights*

### **Article 6(1)**

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

### **Article 7**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### **Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

### **Article 10**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2.
  - (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
  - (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

## *International Covenant on Economic, Social and Cultural Rights*

### **Article 12**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
  - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

## *Universal Declaration of Human Rights*

### **Article 3**

Everyone has the right to life, liberty and security of person.

### **Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## *The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN CAT)*

### **Article 16**

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.
2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

**Evidence gathered from witnesses**

**The following evidence was given by witness 344, anonymous first aider:**



**The following evidence was given by witness 592, Dr Darren Mann:**

Submission: All-Party Parliamentary Group on Hong Kong Inquiry into violations of human rights and humanitarian principles by the Hong Kong Police Force.

I am submitting this material which gives an account of my experience and knowledge of the mistreatment of humanitarian medical workers and symbols of protection (and the healthcare sector more widely) by the Hong Kong authorities over the past year of the protest movement.

I am a Consultant Surgeon from the United Kingdom, and have been living and working in Hong Kong since 1996. With military training, experience as a surgeon in war and conflict zones, and clinical ballistics and firearms use, I am familiar with International Humanitarian Law (law of Armed Conflict) and the interface with Human Rights Law.

I have raised my concerns about violations of international humanitarian customary norms by the Authorities and Police in Hong Kong in the medical professional literature, international press, at the United Nations and before the UK Parliament (where I appeared at the inaugural meeting of the current APPG for Hong Kong at Westminster on 10th January 2020).

This submission consists of the following parts:

1. My publication in the Lancet journal: International humanitarian norms are violated in Hong Kong published 21st November 2019.
2. Correspondence between the Hong Kong Government and myself published in the Lancet 14th March 2020.
3. My report entitled The Current Humanitarian and Health Sector Situation in Hong Kong (this contains material that formed the basis of my representation to the United Nations Office of the High Commissioner for Human Rights in December 2019).
4. Supplementary Report: Questions and Answers in response to requests for further information in relation to Submission #3 that provide more background information.

With respect to the scope of the APPG on Hong Kong Inquiry, the questions about invited evidence can be addressed in my submitted material as follows:

In relation to humanitarian principles:

1. Did the police officers treat humanitarian aid workers humanely?
2. Were the actions of the police officers proportional to the threat posed by medical and humanitarian workers?
3. Did Hong Kong police officers make a distinction between those they considered 'combatants' and of a threat to public order and humanitarian aid workers?
4. Was the use of any force by the police officers necessary?

5. Did the actions of the Hong Kong police violate the spirit or letter of Article 11 of the Geneva Convention (Protocol II) which guarantees the protection and respect of medical units? Yes, violated

In relation to international human rights law:

1. Did the actions of the Hong Kong police in dealing with humanitarian aid workers infringe on any of the civil, political, economic, social, or cultural rights of Hongkongers as outlined in the international covenants and committed to in both Hong Kong Basic Law and the Joint Declaration? Yes, infringed.
2. Did the Hong Kong police violate the International Covenant on Civil and Political Rights and Hong Kong's own Bill of Rights when they arrested humanitarian aid workers? Yes, violated.
3. Did the Hong Kong police violate the International Covenant on Civil and Political Rights and Hong Kong's own Bill of Rights by violating the rights of the humanitarian aid workers when they detained them arbitrarily? Yes, violated.
4. Did Hong Kong police deny protesters and other Hongkongers vital medical treatment and in the process, did they violate the right of protesters to humane treatment? Yes, denied treatment.

In relation to the Sino-British Joint Declaration and Hong Kong's Basic Law:

1. Do the actions of the Hong Kong Police Force constitute a breach of the Sino-British Joint Declaration? Yes, breached

I would be happy to correspond regarding the contents of this submission, and am willing to testify in person in any hearings that may be held in this regard.

Yours sincerely,  
Dr Darren Mann

**The following evidence was given by witness 713, Unnamed first aider/humanitarian worker at Polytechnic University of Hong Kong:**

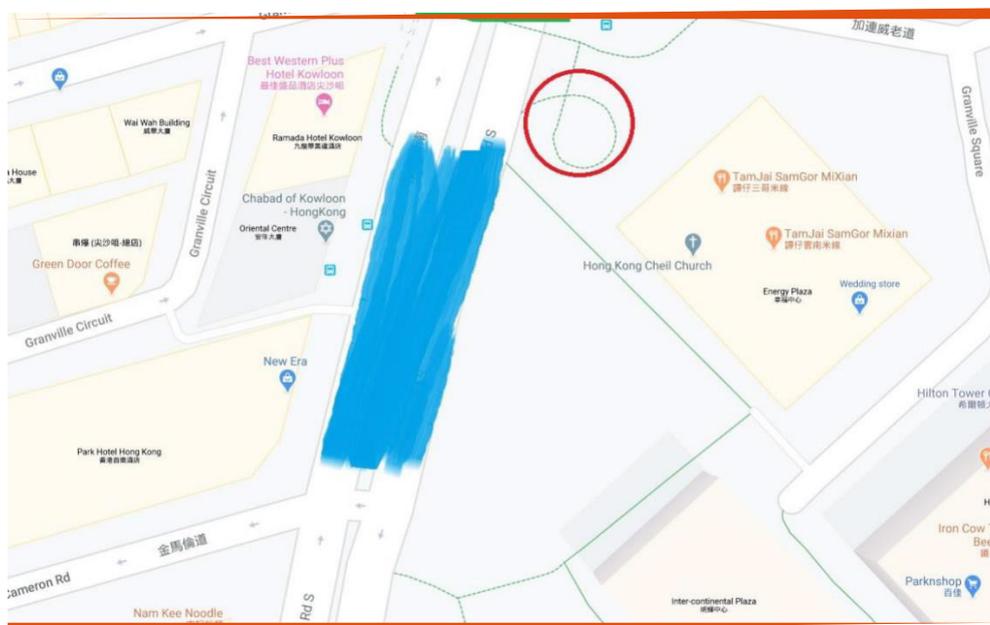
I write to you as a Hongkonger, as a freedom fighter, and as a first-aider in numerous protests. First of all, please accept my profound gratitude for caring for us from thousands of miles away.

I think I need not mention how the police refuse first-aider and even ambulancemen from entering a metro station where countless protestors as well as pedestrians were brutally beaten by them on the 31st of August. Nor the tragic fact that a first-aider was shot in the eye with a bean bag round to cause permanent loss of eyesight on the 11th of August. Not to mention doctors, nurses, and first-aiders were arrested and charged with Riot (Sec. 19 of Cap. 245) on the 18th of November. Last but not least, one Hong Kong citizen died because of the obstruction of rescue by the police. I am sure that you shall have more than enough information on said events.

Hence, I would like to fill you [in] with what I have experienced first-handed. However, in light of

the chaotic situation, I was not able to take any photos, recordings, or videos, not to mention which might be held against me in case I was arrested.

The most impressive image of the police brutality for me is on the 18th of November. As I have said above, since most of the first-aiders were arrested when they were trying to leave Polytechnic University earlier that day, I went out as a first-aider to prevent (or at least help) any bloodshed. I was in the Tsim Sha Tsui East area (red circle) at around 3 to 5 pm. (please see the map on the next page) At the same time, the police cordon line is painted in green and where the protestors were occupying is painted in blue.



As shown on the map, I was standing far from the protestors and with civilians (who were not wearing black as the protestors usually do). Also, the civilians standing next to me are not wearing any protective gear such as gas masks or helmets. Regardless, when the police were attempting to disperse the protestors, they aimed their weapons (including Federal Riot Gun, Remington 870, Penn Arms 40mm Single Shot Launcher Compact and Tippmann 98 Custom Platinum Basic) to the protestors and us.

When the police fired tear gas towards the protestors, civilians next to me were either shouting to the police to beg them to stop shooting the young or crying (not because of the tear gas as they were not shooting at us). But then some of the police officers turned their weapons to us. While the civilians were not posing any real threat to them, tear gas and pepper balls were shot towards us. As a first-aider wearing a gas mask, I shouted out to the civilians nearby to get them out of the range of the tear gas, this is when I got shot in the chest by a pepper ball. Later on, when I cleared everyone to safety, I heard that someone was shouting "first-aider!". I ran to discover that a civilian lady was hit in the head by a tear gas canister.

After describing the brief facts, I would now answer to the questions raised by APPG. First of all, as an occasional humanitarian aid worker, I do not feel myself or my companies were ever treated humanely. And even [if] we are obviously posing no threats, we are usually threatened by the police with the use of force (or in most cases forces are practically used).

In my experience, the police do not possess the idea to differentiate combatants and non-combatants. In fact, the police have said publicly that everyone on site is a threat to public order.

Furthermore, when the police are firing, humanitarian aid workers who usually wear reflective vests are being deliberate[ly] shot at, even if we are far apart from those 'combatants' (just like my personal experience above).

As I have undergone firearms training which is included in my job, I would say that the use of force by the police officers is in intolerable excess. From my personal experience, pepper ball should not be fired upon us as it is a single targeted weapon and does no use in dispersing a crowd. Also, they are shooting regardless of threat levels and without purposes.

As such, I would say that Article 11 of the Geneva Convention (Protocol II) has been violated by the Hong Kong Police Force.

Regarding international human rights law, Article 27 of the Hong Kong Basic Law states that Hongkongers could enjoy the freedom of assembly, of procession and of demonstration. However, the Hong Kong Police Force is restraining such rights by issuing 'Letter of Objection' according to the Public Order Ordinance (Cap. 245).

With regard to the Hong Kong Bill of Rights Ordinance (Cap. 383), which was formulated according to the International Covenant on Civil and Political Rights, - Article 3 states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and - Section 1 of Article 5 states that no one shall be subjected to arbitrary arrest or detention. Yet, humanitarian aid workers are often exposed to the violation of use of force by the Hong Kong Police Force and are often arrested without any concrete reason (e.g. the Polytechnic University Incident).

The Hong Kong Police Force certainly denied protesters and other Hongkongers from having vital medical treatment and hence violate the right of protesters to humane treatment (e.g. Prince Edwards Station on the 31st of August; the death of a Hong Kong citizen namely Mr. Chow Tsz-lok on the 8th of November). The obstruction of medical care by the Hong Kong Police Force has caused the death of one and the deteriorated injuries of many. With regard to the Sino-British Joint Declaration, rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region. However, in light of numerous breaches by the actions of the Hong Kong Police Force, I would say that most of the said rights and freedoms have been restrained. As such, the Hong Kong Police Force do constitute a breach of the Sino-British Joint Declaration.

That would be my response to your questions as a Hongkonger, as a freedom fighter, and as a first-aider. Clearly the Hong Kong Police Force has violated our rights and freedom, in terms of principles, international human rights law, the Sino-British Joint Declaration and Hong Kong's Basic Law. It is no exaggeration to say Hong Kong, once a beautiful colony of the United Kingdom, is under a humanitarian crisis.

Thank you for your concern and your time.

**The following evidence was given by witness 886, journalist Michael Cox:**

To whom it may concern,

My name is Michael Cox and I am an Australian freelance journalist and a permanent resident of Hong Kong. I spent seven years working for the South China Morning Post (2011-2018).

After a short stint working for The Age newspaper in Australia, I returned to Hong Kong in August 2019 to document the protests.

I witnessed many instances where members of the Hong Kong Police Force violated Basic Law and the Sino-British Joint Declaration by using indiscriminate force in the form of tear gas, rubber bullets and pepper spray. Article 3.5 of the Sino-British Law states that freedom [of] assembly and [the] press are ensured in Basic Law.

I was fired on by police with tear gas on many occasions while doing my job, but also while simply eating meals in public places.

I have video evidence of police denying medical treatment to an injured protester on November 2nd and also of members of the public badly affected by tear gas on a number of occasions where police have fired into public space.

I am prepared to testify in front of an inquiry and assist in any way possible. I am struggling to find a way to send video evidence but if you are interested please contact me at xxxxxxxx@xx.xxx or xxxx xxx xxx.

Michael Cox

**The following evidence was given by witness 889, unnamed emergency ward doctor:**

Dear Sir,

I would like to submit the following personal accounts as evidence for the aforementioned All-Party Parliamentary Group (APPG) Inquiry. (Document attached)

I am a resident doctor working in the Accident and Emergency department of a major trauma hospital (one of the designated trauma centres) in Hong Kong and the following accounts are my first-hand accounts of the findings and events. The following accounts will be divided into three parts. Part One are encounters that occurred as formal medical consultations in hospital; formal computerised medical records and documentations, plus or minus photos of wounds are archived within the patient's city-wide government ran medical records system. Identifiers such as names and ID/Case number have been omitted as no formal discussion and consent has been sought from the patients involved as of the writing of this submission. Part Two are encounters outside the hospital, such as medical advice in the informal capacity via personal messages. Part Three are accounts that are in the press, with some components verified via informants within the medical community, or widely publicised severe acts that the APPG may be interested in for further inquiry.

Yours sincerely,

**The following evidence was given by witness 895, unnamed emergency ward doctor:**

**Written Evidence:**

Since the first large scale of protest on 9th June 2019, injuries have been commonly seen in protesters. As public hospitals are the primary acute medical service provider in Hong Kong, most of the injured protesters should be under our care. In June 2019, Police arrested five protesters in public hospitals as they were being treated. Hong Kong's medical sector lawmaker has said that he has proof that Police can access the Hospital Authority's system to check details of injured protesters who were admitted into the public hospital system, without using any unique logins (<https://hongkongfp.com/2019/06/17/police-can-access-full-details-injured-protesters-hospital-saysmedical-sector-lawmaker-following-patient-arrests/>). After that, protesters have avoided seeking medical care at public hospitals unless they have had a life-threatening condition or have been arrested by the Police.

On 11th August 2019, protesters defied police bans, descending upon multiple districts, many people were arrested in police clearance operations. Some arrestees were wounded heavily (<https://hongkongfp.com/2019/08/12/video-hong-kong-police-make-bloody-arrest-assisted-officerssuspected-undercover-protesters/>), and some were brought to the San Uk Ling Holding Centre near Lo Wu, close to the Chinese border ([https://hongkongfp.com/2019/08/12/hong-kong-police-shootprojectiles-close-range-tai-koo-protester-suffers-ruptured-eyetst/?gl=1\\*1hgq4f1\\*\\_ga\\*YW1wLXBVUUJFNUJLdlEwdnhFV29MbG5kZkE](https://hongkongfp.com/2019/08/12/hong-kong-police-shootprojectiles-close-range-tai-koo-protester-suffers-ruptured-eyetst/?gl=1*1hgq4f1*_ga*YW1wLXBVUUJFNUJLdlEwdnhFV29MbG5kZkE)). Some arrested protesters were sent to a public hospital close to the Holding Centre, North District Hospital, on 12th August 2019, more than 10 hours after they were arrested. Some of them have had multiple bruises, some of them have fractures of limbs that required surgery, and some of them have a head injury (<https://www.nytimes.com/video/world/asia/10000006702862/hong-kong-protests-policeofficers.html>).

A large number of Police escorted those injured protesters in the hospital. Doctors and nurses working there reported that the Police have tried to disrupt the clinical care they provided to the admitted injured protesters. Firstly, the Police stopped the staff to inform families of the protesters about hospital admission. Moreover, the Police insisted on staying and witnessing the consultation, physical examination, and even go into the operating theatre during the operation. Our colleagues have explained to the Police that patients' rights and privacy must be protected and declined all those unreasonable requests. The Police then intimidated them by the risk of breaking the law, asked for their personal information, included name, position, and even Hong Kong identity card number.

The incident in North District Hospital was not an isolated case; health care workers of Hong Kong public hospitals have strived to ensure the protection of protesters' privacy and the smooth operation of services for admitted protesters. On 7th October 2019, a nine-months pregnant woman was arrested in Tuen Mun, and she requested to be sent to the hospital as she showed the sign of labor. The Police first rejected it, and she was sent to the maternity ward of Tuen Mun Hospital later. While she was putting on a patient gown and preparing to be checked, a male officer entered the maternity ward despite an attempt by medical staff members to block his access. The reason for the male officer getting in was asking the pregnant woman's personal detail. Male is not allowed to get into the maternity ward except partners of the laboring women because the ward is usually shared by women in labor and undergoing various kind of procedures. Local media have reported that incident, the Hong Kong Police Force has first denied it but admitted later (<https://hongkongfp.com/2019/10/11/hong-kong-police-hospital-confirm-male-officer-enteredmaternity-ward-arrested-pregnant-woman-undergoing-checks/>).

Besides getting in a maternity ward, patients, hospital visitors, and health care workers have been disturbed by certain behaviors of the Police inside hospitals. Communication between the management teams of Hospital Authority and the Hong Kong Police Force has been taken place over months, but no improvement has been observed. On 5th October 2019, a group of armed riot policemen entering the Tuen Mun Hospital overnight, which was likely related to a teen who was shot by an off-duty police officer during a clash in Tuen Mun overnight was moved to the hospital for a surgery (<https://news.rthk.hk/rthk/en/component/k2/1484463-20191005.htm>). They cordoned off part of the hospital public area and shouted at uniformed hospital staff when they tried to get to work.

The Police have ignored the arrested protesters' medical needs, our colleagues have often found dehydration, fever, and poor general condition in protesters sent to the emergency room by the Police. Moreover, the Police have not paid attention to individuals with a special medical need. A pregnant woman was arrested while pasting up protest posters in Tin Shui Wai on 30th October 2019 for suspicion of criminal damage. She was only sent to hospital four hours after she vomited (<https://hongkongfp.com/2019/12/31/pregnant-woman-arrested-tin-shui-wai-sent-hospital-fourhours-vomiting/>). Stampede followed serious clashes between Police and anti-government protesters along Nathan Road, Yau Ma Tei on 18th November 2010 (<https://news.rthk.hk/rthk/en/component/k2/1493235-20191119.htm>). According to the reply of the Hospital Authority to Hong Kong lawmaker, Claudia Mo, 45 were injured, and 10 of them were severe. First Aiders on the site revealed that Police has forbidden them assessing wounded protesters. The first injured protester has arrived at the hospital, which is a 10-minute walk from the site, one hour later. The last injured protester has arrived at the hospital, which is 30 minutedrive from the site, 5 hours later (<https://www.facebook.com/ClaudiaMoManChing/videos/2489269671392377/?sfnsn=mo&d=n&vh=e>).

**Medics on the Frontline:**

Violations of humanitarian principles, international human rights law, and the Sino-British Joint Declaration in the Hong Kong protests and is published separately at:

<https://www.hkinquiry.org/evidence-medics>

**The Report: Silencing Millions:**

Unchecked Violations of Internationally Recognized Human Rights by the Hong Kong Police Force was given by witness 978, the Progressive Scholars Group and is published separately at:

<https://www.docdroid.net/0EA2Bhy/silencingmillions-text-final-pdf>

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- 3 Yam-Hong Wong and Chung-Yee, 'Hong Kong Doctors Decry "Excessive and Abusive" Use of Tear Gas by Police During Protests' (2019) BMJ 366:I5136.
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- 5 Amnesty International, 'Hong Kong's Protests Explained' (September 2019). Available at: <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-protests-explained/>.
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- 9 Ibid.
- 10 Nicola Smith and Aidan Marzo, 'Hong Kong medics accuse police of blocking emergency care to protesters' The Telegraph, 22 November 2019. See also: Darren Mann, 'International humanitarian norms are violated in Hong Kong' The Lancet, 21 November 2019. Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)32909-5/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)32909-5/fulltext).
- 11 Available at: [http://www.xinhuanet.com/politics/2020-05/28/c\\_1126045480.htm](http://www.xinhuanet.com/politics/2020-05/28/c_1126045480.htm).
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- 16 See: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35318>.
- 17 Ibid., 24.
- 18 Ibid., 25.
- 19 Ibid., 26.

- 20 Elizabeth Cheung, “Guerilla First Aid”: Who are the Hong Kong Volunteers Braving Protest Chaos to Treat the Injured?’ (10 August 2019) South China Morning Post. Available at: <https://www.scmp.com/news/hongkong/politics/article/3022185/guerilla-first-aid-who-are-hong-kong-volunteers-braving>.
- 21 Evidence 592, Addendum.
- 22 Available at: <https://www.gov.hk/en/residents/culture/recreation/activities/firstaid.htm>.
- 23 Available at: <https://training.redcross.org.hk/tms/en/fatCourseDetails.aspx?courseCode=SFA>.
- 24 OT 1, 27 May 2020.
- 25 There is no one definition of humanitarian workers but it includes ‘all workers engaged by humanitarian agencies, whether internationally or nationally recruited, or formally or informally retained from the beneficiary community, to conduct the activities of that agency.’ OCHA. Available at: <https://www.who.int/hac/about/reliefweb-aug2008.pdf>.
- 26 Evidence 690.
- 27 OT 9, 5 June 2020.
- 28 Rule 25 states that ‘Medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances. They lose their protection if they commit, outside their humanitarian function, acts harmful to the enemy.’ Rule 31 indicates that ‘Humanitarian relief personnel must be respected and protected.’ Among others, Rule 25 follows Common Article 3 of the Geneva Conventions, as a subsidiary form of protection granted to the sick and wounded. Such protection of medical personnel is also enshrined in the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977. The Geneva Conventions established a system of protection for medical personnel, whether in international or noninternational armed conflicts, that among others, require that medical personnel are protected at all times. Article 24 of the Geneva Convention I states that ‘medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments ... shall be respected and protected in all circumstances.’ Article 36 of the Geneva Convention II provides that ‘medical and hospital personnel of hospital ships and their crews shall be respected and protected.’ According to Article 8(c) of the 1977 Additional Protocol I (Additional Protocol I), medical personnel are ‘those persons assigned, by a Party to the conflict, exclusively to... medical purposes... or to the administration of medical units or to the operation or administration of medical transports.’ Furthermore, ‘such assignments may be either permanent or temporary.’ Article 15(1) of the Additional Protocol I states that ‘Civilian medical personnel shall be respected and protected.’
- 29 See Protocol II.
- 30 International Committee of the Red Cross, Violence and the Use of Force (ICRC, 2011) 16.
- 31 Ibid., 17.
- 32 Ibid., 18.
- 33 Available at: <https://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx>.
- 34 Available at: <https://www.un.org/ruleoflaw/files/BASICP~3.PDF>. See, for example, Nos. 13 and 14 BPUFF that indicate, ‘13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary. 14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.’

- 35 CCLEO and BPUFF provide international standards governing the use of force in law enforcement, also during violent unlawful assemblies. The principles are not legally binding. However, they provide authoritative guidance.
- 36 International Committee of the Red Cross, *Violence and the Use of Force* (ICRC, 2011) 18.
- 37 Ibid., 18.
- 38 Ibid., 20.
- 39 Ibid., 21.
- 40 However, as it is clear from Common Article 3, the Geneva Conventions applies to broadly defined situations of noninternational armed conflicts, including traditional civil wars and internal armed conflicts. Common Article 3 provides fundamental rules that are non-derogable.
- 41 Evidence 937, Case file 4.
- 42 Evidence 937, Case file 1
- 43 OT 7, 5 June 2020.
- 44 Evidence 690.
- 45 Evidence 690.
- 46 [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule7](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule7).
- 47 [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule11](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule11).
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- 49 Evidence 937, Case files 2, 3, 9 and 10. See also Evidence 749.
- 50 Evidence 937, Case file 8.
- 51 Evidence 937, Case file 9.
- 59 Evidence 937, Case file 1.
- 60 Evidence 937, Case file 1.
- 61 Evidence 937, Case file 1.
- 62 Evidence 937, Case file 1.
- 63 OT 9, 5 July 2020.
- 64 Evidence 957, VII.
- 65 See Section 3.1.2. humanely.
- 66 Evidence 937, Case file 4.
- 67 Evidence 937 defines social workers as ‘a group of voluntary social workers who came together amid the antiextradition bill movement. According to the interviewees, the roles of battlefield social workers in protests can be categorized as follows: 1. Mediator • Mediators served as a buffer between the frontline protesters and police officers, minimizing injuries. • They are present at the scene, most of the time with megaphones, to urge restraint and monitor whether police officers abuse their power. 2. On-site supporter • Provide on-site support to mediators, eg holding the megaphone and filming the scenes. • Mediator and on-site supporter often work as a team. 3. Neutral observer • Attend public gatherings as independent observers to provide information and/or record and collect evidence of unlawful behavior. 4. Commander • Coordinate and provide directions for on-site battlefield social workers.’
- 68 Evidence 937, Case file 8.
- 69 Evidence 937, Case file 8.
- 70 CCPR General Comment No. 36, Article 6: right to life, CCPR/C/GC/36, 3 September 2019, 3.
- 71 CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment) 10 March 1992, 5.
- 72 CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment) 10 March 1992, 3.
- 73 ‘The term “arrest” refers to any apprehension of a person that commences a deprivation of liberty, and the term “detention” refers to the deprivation of liberty that begins with the arrest and continues in time from apprehension until release.’ Ibid., 12.

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| 74 | CCPR, General comment No. 35, Article 9 (Liberty and security of person), CCPR/C/GC/35, 16 December 2014, 12.  | 100 | Evidence 690.   |
|    |  | 101 | Evidence 690.   |
| 75 | UN Working Group on Arbitrary Detention, Revised Deliberation No. 5 on deprivation of liberty of migrants, 7 February 2018, 8.   | 102 | Evidence 937, Case file 5.  |
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| 76 | CCPR General Comment No. 21: Article 10 (Humane Treatment of Persons Deprived of Their Liberty) 10 April 1992, 3   | 104 | Evidence 957, II.   |
|    |  | 105 | Evidence 957, III.  |
| 77 | CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), E/C.12/2000/4, 11 August 2000, 33. [emphasis added]  | 106 | Evidence 957, IV.   |
|    |  | 107 | Evidence 957, V.  |
| 78 | Ibid.  | 108 | Evidence 592  |
| 79 | Evidence 937, Case file 4.   | 109 | See:<br><a href="https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35318">https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35318</a> . |
| 80 | Evidence 937, Case file 9.   |     |   |
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| 82 | Evidence 937, Case file 1.   | 111 | Evidence 937, Case file 1   |
| 83 | Evidence 937, Case file 1.   | 112 | Evidence 690. See also: Evidence 814, 201908167.  |
| 84 | Evidence 937, Case file 9.   |     |   |
| 85 | Evidence 937, Case file 2.   | 113 | Evidence 713.   |
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| 90 | Evidence 937, Case file 6.   | 117 | Evidence 895.   |
| 94 | Evidence 957, X.   | 118 | Evidence 895.   |
| 95 | Evidence 937, Case file 9.   | 119 | Evidence 301.   |
| 96 | Evidence 690.  | 121 | Evidence 301.   |
| 97 | ‘States’ failure to ensure adequate hygiene and sanitation and to provide appropriate facilities and materials can also amount to ill treatment or even torture.’ See: General Comment No. 21, Article 10 ICCPR. | 122 | Evidence 895.   |
|    |  | 123 | See:<br><a href="https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35318">https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=35318</a> . |
| 98 | Evidence 937, Case file 3. [emphasis added]  |     |   |
| 99 | Evidence 690.  |     |   |

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- 135 OT9, 5 June 2020.
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Inquiry into Violations of Human Rights and Humanitarian Principles by the Hong Kong Police Force

August 2020

