

Submission to the Parliament of Australia
on
“Free Trade Agreement between Australia and Hong Kong, China”
August 2019
by
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Introduction

A “Free Trade Agreement between Australia and Hong Kong, China” was initially tabled on 2 April 2019. The Treaties Committee of the Australian Parliament seeks comments and welcomes submissions regarding this treaty. In light of the recent development of the social movement, aka Anti-Extradition Movement, Hong Kong Demosisto is concerned about the impact of the FTA that will enhance Hong Kong’s purchase of weapons or any other goods used to crackdown on peaceful protests. Furthermore, within the whole FTA, there are no humanitarian clauses. As a democratic country that upholds the value of human rights, Australia is urged to include human rights clauses in the treaty.

Anti-Extradition Movement

The current social movement has been triggered by the Government’s proposal to make amendments on the existing Extradition Law¹, once passed, anyone in Hong Kong could be extradited to China and face trial by the Chinese judiciary system.

Characterisation as Riot

For the first time after the Handover of Hong Kong from Britain to China in 1997, one million people took to the streets to oppose the bill on June 9, 2019. However, the very night, Carrie Lam, Hong Kong’s Chief Executive, announced to resume the second reading of the next

¹ The Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 is available at <https://www.legco.gov.hk/yr18-19/english/bills/b201903291.pdf>; The Government’s Legislative Council Brief of the bill is available at https://www.legco.gov.hk/yr18-19/english/bills/brief/b201903291_brf.pdf

Wednesday. People were outraged by the decision of the Government. Thousands of protesters tried to blockade the Legislative Council on June 12, the day of the second reading, trying to stop the process. Despite the nature of the largely peaceful protest², the police used tear gas, rubber bullets and bean bag rounds against protesters, causing bloodshed in the protest area. The police were caught shouting foul language at the Press and shot tear gas canister at the press.

The Chief Executive and the Commission of the Police Force later characterised the largely peaceful assembly as a riot.³ According to Public Order Ordinance⁴,

“Any person who takes part in a riot shall be guilty of the offence of riot and shall be liable on conviction on indictment, to imprisonment for 10 years”

The characterisation again outraged the public and triggered two million people to take to the streets on the next Sunday, June 16. Until today, the Government refused to retract its characterisation of the June 9 protest at a riot, leaving protesters liable to heavy sentences for as long as 10 years of imprisonment.

Triad and the Police

On July 21, some hundred triad members gathered in a remote area, Yuen Long, to wait for protesters to come home from Western District.⁵ The gangs in white T-shirts attacked passers-by in the street with bamboo sticks and metal rods. They then went into the metro station and even on the train to attack all commuters, including men, women, children, a legislator, and a pregnant woman. Two police officers were caught turning their back from the scene. Despite citizens calling for help, the police only arrived 39 minutes later, claiming they their manpower were used at Western District where there was a protest. The gangsters were gone by the time the police arrived.

Videos showed that the gangsters and the police walked past each other without having any interaction. Police stations in Yuen Long and Tin Shui Wai, another district in New Territories West, shut their gates despite citizens' call for help⁶. The police did not arrest anyone at that night, claiming they had not seen anyone hold weapons. But a video clip revealed two police officers talking to two men in white t-shirts and metal rods in their hands.

² <https://www.amnesty.org/en/latest/news/2019/06/hong-kong-extradition-protest-excessive-force/>
³

<https://www.hongkongfp.com/2019/06/13/just-restrained-hong-kong-police-say-150-rounds-tears-gas-20-bean-bag-shots-fired-anti-extradition-law-riot/>

⁴ <https://www.elegislation.gov.hk/hk/cap245>

⁵ <https://www.youtube.com/watch?v=16CiwPChpr0>

⁶ <https://www.youtube.com/watch?v=LGoFRs34RH4>

Triad attack happened again later in different districts, including North Point, Tsuen Wan, and Tin Shui Wai. In Tsuen Wan, a protester was held by the gangsters by his arm, while another man wounded him with a machete⁷. The incident was received by many citizens as a terror attack. Passers-by tried to show the police the direction where the gangsters fled, but the police did not chase after them. In Tin Shui Wai, citizens protested outside the police station against the arrest of two youngsters. A car drove by and shot fireworks directly at the citizens⁸. The people pounded on the closed gate of the police station to try to get in. Riot police allegedly came out and pushed the citizens away.

Excessive use of force/ brutality/ misconduct by the police

Police brutality has been observed throughout the whole anti-extradition movement. More than 2,000 canisters of tear gas (some were even expired) were shot, in many occasions directly at protesters and into the middle of the crowd. On August 3, tear gas was even shot from skyscrapers¹⁰. Rubber bullet, bean bag rounds, sponge-tipped bullets were shot directly at the head of protesters.

On July 14, a peaceful demonstration in Sha Tin district was turned into a cage fight. Clashes took place after a protester threw dog food at the police, who deployed pepper spray in return. For many hours the protesters built defense without pushing the police cordon. All ways out of the protest area were blocked except New Town Plaza, a luxurious mall connected to the Sha Tin train station. When protesters arrived, riot police came in and tried to attack and arrest them. This was the first time that police entered private property to make arrests. Protesters had no way to flee and both sides fought against each other. The commander was blamed to risk the safety of frontline police officers in this action. In the same evening, police even entered a residential area to make arrests, and finally kicked out by residents.

Aug 3, in a demonstration, the police used tear gas in residential areas in Wong Tai Sin and affected the residents, who then came down to the streets to protest against the use of tear gas.

August 11, a girl was shot in the face by a bean bag round, causing severe injury¹¹. She is very likely to lose her vision. According to reporters, the police at the scene aimed at protesters' heads deliberately. (source). Tear gas was shot into Kwai Fong station, despite international

⁷ <https://hk.news.appledaily.com/breaking/realtime/article/20190824/59966568>

⁸ <https://t.me/s/antiextraditionverifiednews?before=1406>

⁹ <https://www.facebook.com/watch/?v=478178046291194>

¹⁰ <https://www.facebook.com/watch/?v=2599718326753634>

¹¹ <https://news.rthk.hk/rthk/en/component/k2/1474128-20190812.htm>

standard and the usage of tear gas. In Tai Koo station¹², police shot pepper balls at protesters at a very close distance and even pushed the protesters down the escalator¹³.

In more than one statement, the Junior Police Officers' Association (JPOA) called protesters "cockroaches"¹⁴. Since the first time such statement was issued, police officers were seen calling protesters cockroaches. Recently, the language has become a common language amongst frontline officers. Such hate speech is particularly concerning, for it has been used in Nazi Germany and Rwandan Genocide.

Police Identity Documents

Should the police have any misconduct, civilians could make complaints at Complaints Against Police Office (CAPO), a department under the Police Force, and Independent Police Complaint Council (IPCC), an independent body that monitors the Police Force, though without mandate and power to summon.

According to Police General Ordinance Chapter 20-14-4¹⁵,

Uniformed police officers should produce their warrant cards upon request by members of the public unless:-

- (a) circumstances do not allow; or*
- (b) to do so would prejudice the police action and/or safety of the officers concerned; or*
- (c) the request is unreasonable.*

In reality, many police officers deliberately hid their PC number on their shoulders and not wear their warrant cards¹⁶. The vice-chair of the IPCC, Christopher CHEUNG Wah-Fung even said in an RTHK programme, that Tactical Squad, commonly known as "raptors", may hide their warrant cards because "display of ID would restrict police"¹⁷. In fact, without the police number, complaints against misconduct or violence are impossible.

Torture by the police

¹²

<https://www.theguardian.com/world/video/2019/aug/12/police-fire-teargas-into-hong-kong-subway-station-video>

¹³

<https://www.hongkongfp.com/2019/08/12/hong-kong-police-shoot-projectiles-close-range-tai-koo-protesters-suffers-ruptured-eye-tst/>

¹⁴

<https://www.hongkongfp.com/2019/07/29/hong-kong-police-group-calls-people-vandalised-grave-low-lives-cockroaches-not-human/>

¹⁵ <https://www.police.gov.hk/info/doc/pgp/en/Epg020.pdf>

¹⁶ <https://www.facebook.com/jeremytammanho/videos/1433697933439711/?v=1433697933439711>

¹⁷ <https://news.rthk.hk/rthk/en/component/k2/1476066-20190822.htm>

Legislator Lam Cheuk-ting revealed a case of torture by the police in hospital in a press conference on August 20¹⁸. The victim, aged 62, was tortured by two police officers in June. His eyes were pressed once, head slapped 22 times, crotch punched 8 times, mouth gagged with his pants that he wetted, etc. His right-hand ring finger was broken by the police. Two officers were arrested on the same day the video was revealed. The police PR team told the press that they were not aware that hospital had CCTV and therefore did not know of such video before the press conference.

At least 30 protesters arrested on 11 Aug in Tsim Sha Tsui were brought to the San Uk Ling Holding Centre, close to the Chinese border. Three lawyers said that police deliberately denied them the right to see their clients¹⁹. Protesters were sent to the hospital a few hours later with broken bones²⁰.

Sexual assault

The police were accused of indecent assault after two female officers strip-searched the arrested female protester. The girl was forced to take off all her clothes, “because you violated the law,” the officer told her. When she tried to cover her crotch with her hands, the officer hid her hand with a pen. The officers also hit her inner thigh to her to straddle. When asked to show her rear part, the girl saw the other officer smirking with enjoyment. When the door to the search-room was open, she saw more than 10 male officers outside²¹.

The girl stayed in the hospital after her arrest and needed to go to the court as soon as she leaves the hospital. It was unnecessary that she was sent to the police station and strip-searched in between. She felt the whole incident as revenge by the police.

White terror

Big firms also crack down on the movement by dismissal of employees. Cathay Pacific, a brand that earns glory for Hong Kong, has sacked 2 pilots and numerous flight attendants, including the chairperson of Cathay Dragon Union, for supporting the movement. The reasons of dismissal are believed to be the commends supportive to the movement by the staff in social media. Cathay Pacific did not provide any reason upon request. The firm later threatens its staff not to join the planned strike on 2nd and 3rd September, with the consequence of “breach of

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<https://www.hongkongfp.com/2019/08/20/hong-kong-police-not-aware-cameras-hospital-ward-dealing-torture-complaint/>

¹⁹

<https://www.hongkongfp.com/2019/08/12/hong-kong-police-shoot-projectiles-close-range-tai-koo-protester-suffers-ruptured-eye-tst/>

²⁰ <https://www.hk01.com/突發/363488/逃犯條例-數名被捕示威者手腳骨折-送北區醫院拘留治理>

²¹

<https://www.hongkongfp.com/2019/08/23/hong-kong-police-accused-metoo-assault-protester-strip-searched-days-arrest/>

contract”. Till now, more than 20 employees in the aviation industry have been dismissed²². Employees are worried that their political rights are hindered. Many citizens started self-censor their own speeches in different social media platforms.

International concern

On 18 July, The European Parliament adopted a resolution that “calls for the EU, its Member States and the international community to work towards the imposition of appropriate export control mechanisms to deny China, and in particular Hong Kong, access to technologies used to violate basic rights.”²³

The UN has also raised concern on 13 August over the use of less-lethal weapons by the Hong Kong security personnel “in ways that are prohibited by international norms and standards” that created “considerable risk of death or serious injury.”²⁴

Update on 831 metro attack by police

The planned 831 demonstration by Civil Human Rights Front has been denied by the police, and appeal ruled unsuccessful by the appeal board, for “there have been violence”. Political leaders including Joshua Wong and 3 legislators on the previous day. Citizens took to the streets nevertheless. Undercover police were caught by protesters, for alleged setting of fire. Late night in Prince Edward station, hundreds of police stormed into the platform and started to raid on young citizens, despite the citizens’ submission and begging to stop. Police beat up citizens with batons and pepper spray. Journalists and medical personnel were not allowed into the area. Witness described the scene as “living hell”, and was more terrible than 721 triad attack, because the police were licensed to conduct terror attacks²⁵.

Human Rights Clauses to be included

As a norm of the European Union, human rights clauses are included in Free Trade Agreements between the EU and third countries, where human rights are possibly violated. Considering the present situation in Hong Kong, we strongly urge the Australian authority and the Parliament to consider adding such clauses into its FTA with Hong Kong, in order to avoid any further violation of human rights in Hong Kong caused by the trade between Hong Kong and Australia.

²²

<https://www.afp.com/en/news/15/cathay-warns-staff-face-sack-if-they-join-hong-kong-strike-doc-1jv4ez2>

²³

http://www.europarl.europa.eu/doceo/document/RC-9-2019-0013_EN.html?fbclid=IwAR2MAuUGR6GrKYR_1LD7EGOTWeeXcBMI5B8N0TMSfqM2h_pMSObogVqE_CI

²⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24888&LangID=E>

²⁵

<https://www.bbc.com/news/av/world-asia-china-49540165/hong-kong-police-violently-tackle-suspected-protesters-on-metro>