

## Brief Report on the 31st Anniversary Assembly of the June 4 Incident

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This year marks the 31st anniversary of the June 4 Tiananmen Square incident. On 23 April, the Hong Kong Alliance in Support of Patriotic Democratic Movements in China (“The Alliance”) – the annual candlelight vigil organiser – had notified the Commissioner of Police about holding a public assembly in Victoria Park on 4th June. No reply was received from the police until 1 June, three days ahead of the planned commemoration, when the police refused to give permission citing the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) that prohibits public gatherings of more than eight people<sup>1</sup>.

The vigil is banned for the first time in 30 years. The Alliance then encouraged the public to light candles across the city to pay tribute to Tiananmen dead, at least 60 booths were set up to distribute candles on that day. Ten of thousands of people gathered at Causeway Bay, Sai Ying Pun, Mong Kok, Kwun Tong, Tseung Kwan O, Tsuen Wan, Tin Shui Wai, Tuen Mun, and other districts to attend the vigil<sup>2</sup>.

Civil Rights Observer deployed human rights observers to Victoria Park to record and monitor the assembly on 4 June. At around 6:30pm, Lee Cheuk-yan, chairman of the Alliance, and other members entered Victoria Park. Citizens slowly walked into the football pitches after some people pushed down the metal barriers that had been used to block the entrance. At 8pm, six football pitches were almost filled up by groups of people keeping a distance from one another. The vigil lasted around an hour and the crowd left peacefully afterward.

From our observation, although a large number of police officers were deployed around Victoria Park, they took no action to prevent people from entering the park except making continuous broadcasting announcements to warn that the assembly had been banned, attendees of an unauthorised assembly might violate the Public Order Ordinance (Cap. 245), and gatherings of more than eight were illegal. A source quoted in a local news report said that the police would handle the vigil in Victoria Park with tolerance and moderation. Police officers would not enter the park nor conduct dispersal operation if the assembly remained safe, peaceful and orderly<sup>3</sup>.

However, on 19 June, 13 people received summons for unlawfully inciting others to take part in an unauthorised assembly on 4 June. The case will be brought to West Kowloon Magistrates’ court on 13 July. The arrestees mostly are leading figures of the Alliance,

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<sup>1</sup> Hong Kong’s annual Tiananmen vigil, banned for the first time in 30 years: what you need to know about June 4 event in the city, South China Morning Post. <https://www.scmp.com/news/hong-kong/politics/article/3087431/banned-first-time-30-years-heres-what-you-need-know-about>

<sup>2</sup> HKFP guide to Hong Kong’s Tiananmen Massacre commemorations, as police ban annual vigil, Hong Kong Free Press. <https://hongkongfp.com/2020/06/03/hkfp-guide-to-hong-kongs-tiananmen-massacre-commemorations-as-police-ban-annual-vigil/>

<sup>3</sup> Source: Unless the situation is chaotic, the police would not enter Victoria Park, Now News. (Chinese only) <https://news.now.com/home/local/player?newsId=393259>

including chairperson Lee Cheuk-yan; vice-chairpersons Albert Ho and Chow Hang-tung; secretary Richard Tsoi; core members Cheung Man-kwong, Mak Hoi-wah, Andrew Wan, Chiu Yan-loi, Leung Yiu-chung and Leung Kam-wai. Vice president of the Labour Party Steven Kwok, vice convenor of the Civil Human Rights Front Figo Chan, and owner of pro-democracy media outlet Jimmy Lai were also on the charge list<sup>4</sup>.

Civil Rights Observer criticises the Hong Kong government and the police for failing to fulfil their positive obligation in facilitating the June 4 vigil, to exercise discretion under section 5(1)(b) of Cap. 599G to permit group gathering of great public interest, and to attempt balancing the need for public health protection and the right to freedom of assembly. Health concerns of the authority could be addressed by imposing conditions<sup>5</sup>, such as requiring participants of the assembly to wear masks or keeping a social distance. In fact, a similar offer made has been ignored, revealed by the organiser after a meeting with the police<sup>6</sup>.

June 4 vigil – a significant symbol of the pro-democracy movement in Hong Kong – is one of the renowned peaceful public assemblies held annually. While the organiser duly informed the police more than a month ago in accordance with Public Order Ordinance of no less than 7 days prior to the assembly, the government and the police handled it with indifference. Their way of handling sets out a bad precedent. Not only does it demonstrate how a peaceful and in principle lawful assembly could be deliberately constructed into an illegal assembly due to inaction of the government and the police in fulfilling their positive obligation to facilitate the holding of a peaceful public assembly; it also renders the notification procedure of public assembly in Hong Kong as a de facto request for authorisation. Under such circumstance, a public assembly could only be held with the police’s “acquiescence” and “tolerance”; organisers and participants of the assembly are being put at risk of criminal liability for organising or taking part in an illegal assembly, if otherwise.

The United Nations Human Rights Committee has repeatedly expressed concerns over Public Order Ordinance for not meeting international standards on the freedom of expression and association<sup>7</sup>. The above incident is another clear case of violation of international human rights law which can hardly be justified, even on health grounds or by the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation. As the United Nations Special Rapporteur has pointed out recently, public health regulations should not be used as a pretext for human rights infringements; freedom of assembly and expression must be ensured when practicable<sup>8</sup>.

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<sup>4</sup> At least 9 more were accused of inciting others to take part in unauthorised assembly regarding June 4 vigil, Now News. (Chinese only) <https://news.now.com/home/local/player?newsId=394208>

<sup>5</sup> *Leung Kwok Hung & Others v HKSAR* (2005) 8 HKCFAR 229.  
<https://www.hklii.org/eng/hk/cases/hkcfar/2005/40.html>

<sup>6</sup> Lee Cheuk-Yan: The Police refuse to tell if the vigil can be held, HK01. (Chinese only)  
<https://www.hk01.com/%E6%94%BF%E6%83%85/478866/%E5%85%AD%E5%9B%9B%E9%9B%86%E6%9C%83-%E6%94%AF%E8%81%AF%E6%9C%83%E6%9D%8E%E5%8D%93%E4%BA%BA-%E8%AD%A6%E6%96%B9%E6%8B%92%E7%B5%95%E5%9B%9E%E6%87%89%E8%83%BD%E5%90%A6%E8%88%89%E8%A1%8C%E9%9B%86%E6%9C%83>

<sup>7</sup> Concluding observations on the third periodic report of Hong Kong, China, adopted by the Committee at its 107th session. (CCPR/C/CHN-HKG/CO/3)

<sup>8</sup> “States responses to COVID 19 threat should not halt freedoms of assembly and association” – UN expert on the rights to freedoms of peaceful assembly and of association, Mr. Clément Voule.  
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>

It is of our concern that this is not a single incident. The upcoming annual 1 July protest, which marks the anniversary of the city's handover, is likely to be banned based on the same regulation. Despite the government's announcement made on 16 June to relax the rule by allowing restaurants and wedding banquets to operate without restrictions on customer capacity, the limit on public gatherings is only increased from 8 to 50 people. These amendments, effective from 19 June and will remain in place for 14 days, have attracted criticism from the local community. Several experts questioned the rationale behind, as outdoor gatherings with a lower risk of spreading the disease are more restricted compared to indoor activities with a higher risk. The government denied "political considerations were involved"<sup>9</sup>.

We urge the government to drop charges against the 13 pro-democratic activists and refrain from citing the Public Order Ordinance to prosecute organisers and participants of peaceful assembly in the future. All alternatives including social distancing arrangements and conditions should be explored and exhausted before rejecting any public assembly.

### **About Civil Rights Observer**

Established in 2014, the Civil Rights Observer works to protect and promote civil and political rights in Hong Kong, with a focus on police abuse of powers. The four pillars of our work are: human rights education, police power monitoring, policy advocacy, and emergency human rights support. More information available at: <https://www.hkcro.org/>.

Contact: [info@hkcro.org](mailto:info@hkcro.org)

Website: [www.hkcro.org](http://www.hkcro.org)

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<sup>9</sup> Coronavirus: Hong Kong to up public gathering cap to 50 people as gov't relaxes business restrictions, Hong Kong Free Press. <https://hongkongfp.com/2020/06/16/breaking-coronavirus-hong-kong-to-up-public-gathering-cap-to-50-people/>