



THE STATE OF LABOUR IN HONG KONG 2023

APRIL 2024



Content

1. Introduction	3
2. Overview of Economic and Labour Market Situations	3
3. Development in Labour Laws and Policies	11
4. Infringements of the Rights to Organise and Freedom of Association	17
5. Trade Union Activities and Worker’s Collective Actions	22
6. Epilogue	26

Annexes:

Annex I: State of Labour in Hong Kong 2023 – Major Events

Annex II: List of Arrested Trade Union Leaders since the Promulgation of the National Security Law

1. Introduction

This report takes stock of recent developments in the labour market, labour laws and policies, labour standards violation, as well as trade union activities and worker's collective actions in Hong Kong. The city's unemployment and underemployment rates eased steadily in 2023 despite weaker than expected post-COVID economic recovery. Amid the tightening of the labour market, real wages have started picking up since mid-2022 and surpassed the pre-pandemic level since June 2023. In response to the shrinking of working population owing to ageing and recent emigration wave, the Government implemented a series of talent attraction measures including the Top Talent Pass Scheme (TTPS) and the Enhanced Supplementary Labour Scheme (ESLS); yet the final quarter of 2023 still witnessed a decline in the labour force by 4.1% from four years earlier. With the working population declining and China's recent economic growth slowing down, Hong Kong's economy faces severe challenges in the medium term, which could eventually have a negative impact on the city's labour market.

On the other hand, since the promulgation of the National Security Law (NSL) on 30 June 2020, the Government's crackdown on the city's trade unions has never stopped. At the end of 2023, at least 13 trade union activists had been arrested and two trade unions had been de-registered by the authorities. Union membership fell by 7.6% in 2022 from three years earlier. Amid the police's tightening control on civil society activities, worker's collective actions have almost disappeared in the public sphere and trade union activities were largely confined to those relating to narrow occupational interests. A list of major events can be found at Annex I.

2. Overview of Economic and Labour Market Situations

Hong Kong was among the last economies in the world to reopen when all COVID restrictive measures were belatedly lifted in early 2023. Financial Secretary Paul Chan, when delivering the annual budget in February 2023, optimistically predicted a robust post-pandemic rebound and forecasted the economy to grow by 3.5 – 5.5% in real terms (and later narrowed to 4 – 5% in August).¹ The anticipated catch-up growth had however not been materialised and the recovery had been much weaker than expected. Real GDP of the second quarter saw an unexpected contraction of 1.1% compared with preceding three months, and in the second half of 2023, the economy barely grew quarter-to-quarter after seasonal adjustment (Figure 1). For the whole of 2023, the city's annual economic output grew by 3.2%, 1.3 percentage points lower than the original median forecast (Figure 2). Suffered from the three-year draconian "zero-COVID" measures and softer than expected recovery, Hong Kong's economy has yet to return to its pre-pandemic level; in real terms, the city's GDP in 2023 was still 2.7% and 1.1% lower than that in 2018 and 2019 respectively.

¹ www.info.gov.hk/gia/general/202308/11/P2023081100510.htm [retrieved 4 March 2024]

Figure 1: Real GDP changes (2019Q1 to 2023Q4)

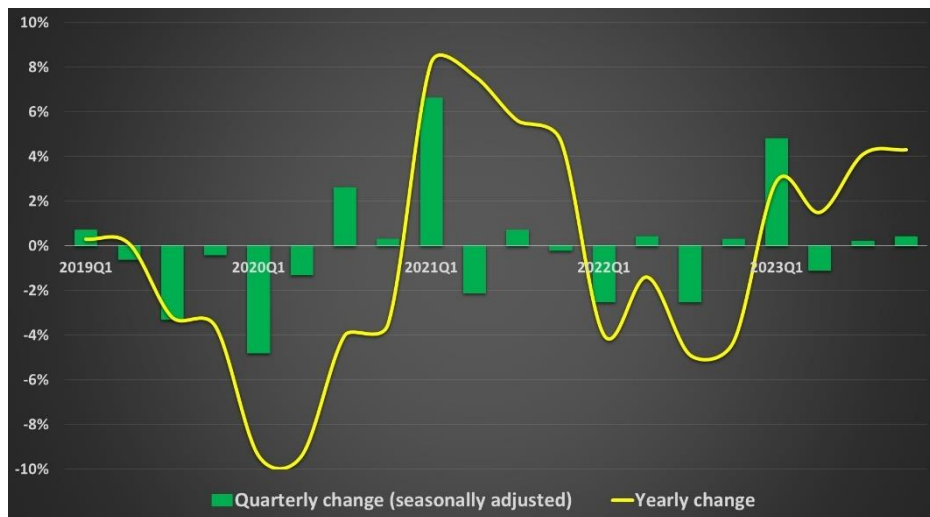
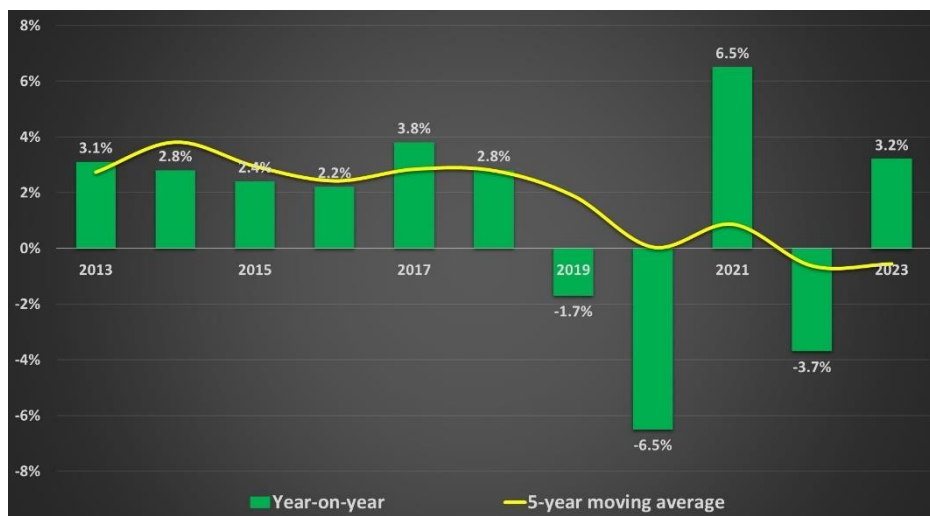


Figure 2: Real GDP year-on-year changes (2013 to 2023)



Source: National Income Section, Census and Statistics Department
 (www.censtatd.gov.hk/en/web_table.html?id=310-31001)

Despite the disappointing post-pandemic recovery, the city’s labour market improved steadily throughout 2023. Unemployment rate in the final quarter of 2023 stood at 2.9%, down from 5.5% during the Omicron outbreak in the previous year. Underemployment also declined from 3.8% to 1.0% over the same period (Figure 3). The labour market situation in the four sectors hardest hit by the COVID containment measures had improved markedly. Unemployment rate in the “decoration, repair and maintenance for buildings” sector declined to 5.3% in the final quarter of 2023, more than ten percentage points lower than the previous peak in the three-month period ending April 2022; while underemployment rate in the “food and beverage service” sector decreased from 11.7% to 1.2% over the same period (Figures 4 and 5).

Figure 3: Unemployment and underemployment rates (2019Q4 to 2022Q4)

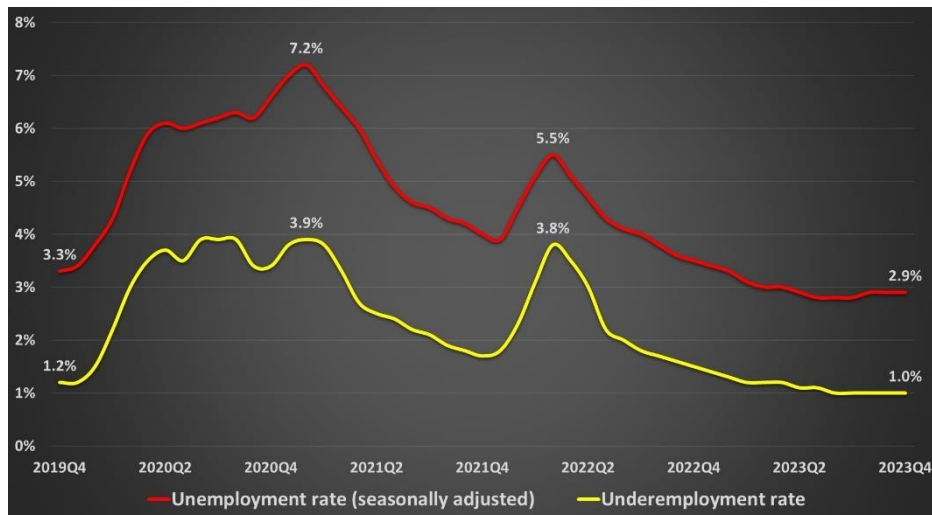


Figure 4: Unemployment rates in hardest hit sectors

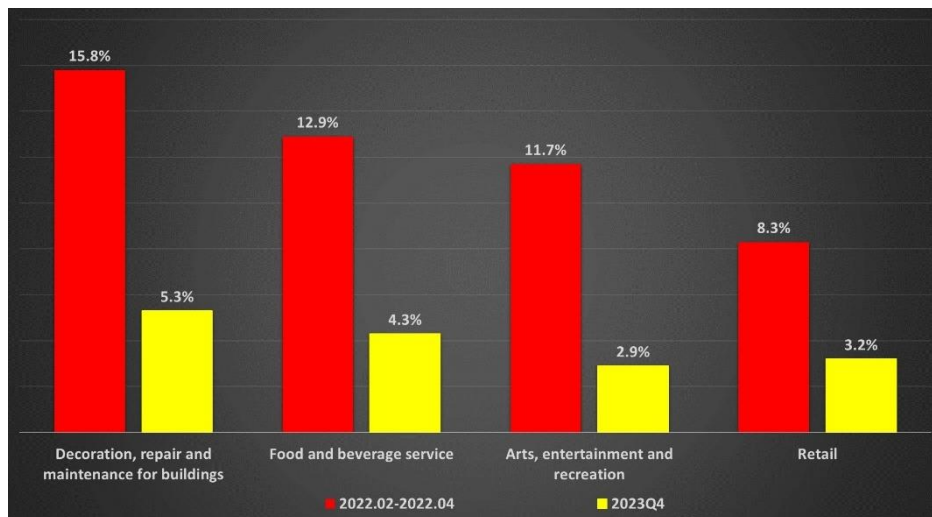
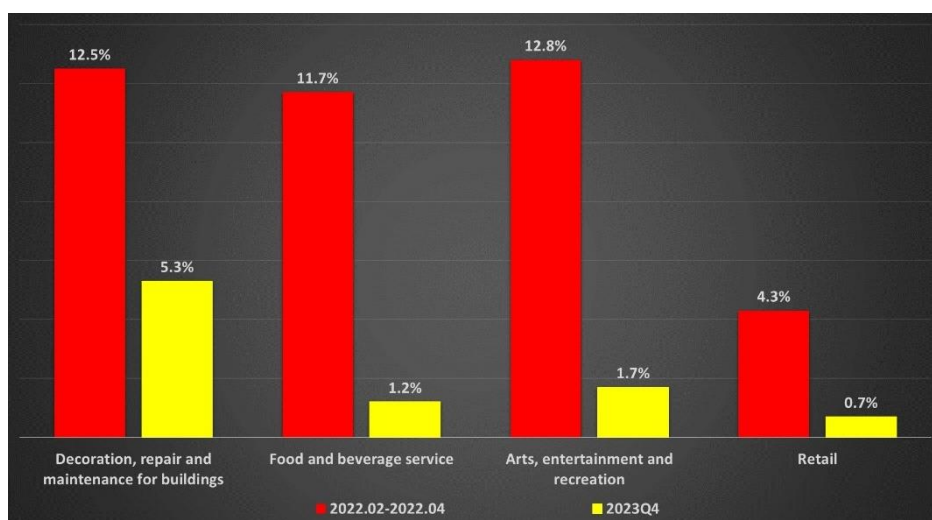


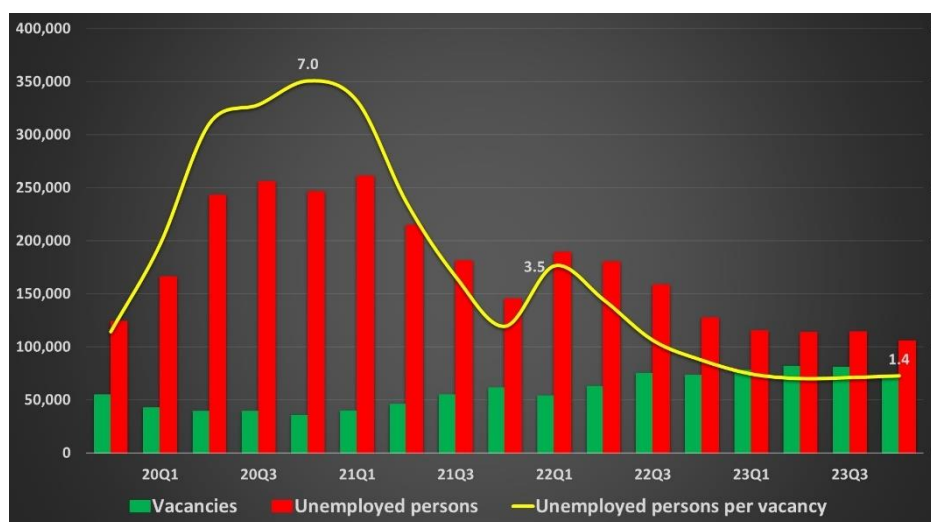
Figure 5: Underemployment rates in hardest hit sectors



Source: General Household Survey Section, C&SD
 (www.censtatd.gov.hk/en/web_table.html?id=210-06101; ... id=210-06405; ... id=210-06503)

With COVID-related containment measures gradually lifted starting mid-2022, the once disrupted business activities had quickly resumed and companies begun recruiting more workers. The number of private sector vacancies jumped to around 81,000 in the second and third quarters of 2023, the highest since the current series of statistics started in 2000. Coupled with falling unemployment, the ratio of unemployed persons to vacancies has dropped to 1.4 since the second quarter of 2023, down from the previous high of 3.5 in the first quarter of 2022 (Figure 6).

Figure 6: Number of Vacancies and Unemployed Persons (2019Q4 to 2023Q4)



Source: Employment Statistics and Central Register of Establishments Section and General Household Survey Section, C&SD
 ([www.censtatd.gov.hk/en/web_table.html?id=215-16001; ... id=210-06101](http://www.censtatd.gov.hk/en/web_table.html?id=215-16001;...id=210-06101))

Amid the tightening of the labour market, wages had started picking up since mid-2022. In June 2023, nominal wage index rose by 3.5% from a year earlier, or 1.8% after adjusted for inflation², and the real wage level surpassed the pre-pandemic high in June 2018 by 0.9%. The upward trend of wage movement continued in the second half of 2023, in December nominal wage index rose by 0.5% from September, or 0.6% in real terms (Figure 7). With rising wages and falling underemployment, the number of low-wage workers (with monthly earnings less than HK\$6,000, excluding migrant domestic workers, MDWs) reduced notably, from 221,000 (6.8%) in the second quarter of 2022 to 170,000 (4.8%) in the third quarter of 2023 (Figure 8). Similarly, the number of economically active low-income households (with monthly income less

² In this report, underlying consumer price index (A) is used as the deflator to calculate the real wage level. This is different from the Census and Statistics Department’s calculation, in which headline CPI (A) is used. Underlying CPI(A) is a better deflator to track the trend of real wage level as it eliminates the distortions of Government’s one-off relief measures; for example, according to the C&SD’s calculation, real wage index in September 2022 dropped by 6% from a year earlier, the decline is however due to the one-off rent subsidy to public housing tenants in 2021, which has nothing to do with the underlying wage movement.

than HK\$10,000, excluding MDWs) also dropped significantly, from almost 140,000 (6.7%) to 80,000 (3.8%) over the same period (Figure 9).

Figure 7: Wage index year-on-year change (2019Q4 to 2022Q4)

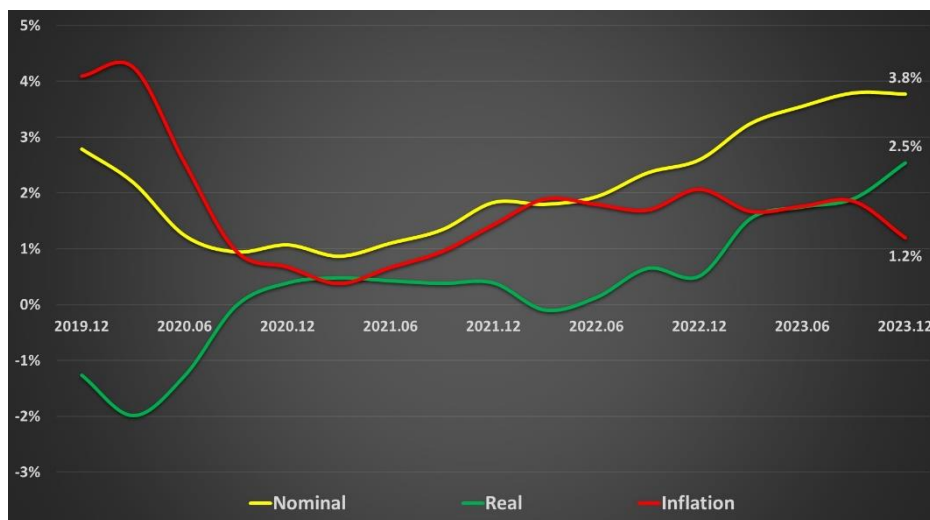


Figure 8: Low-wage workers (2019Q1 to 2023Q4)

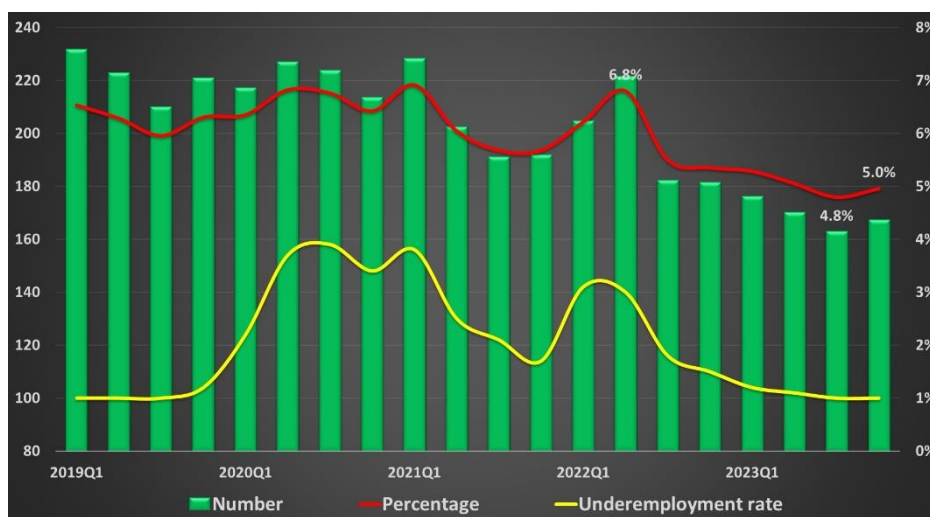
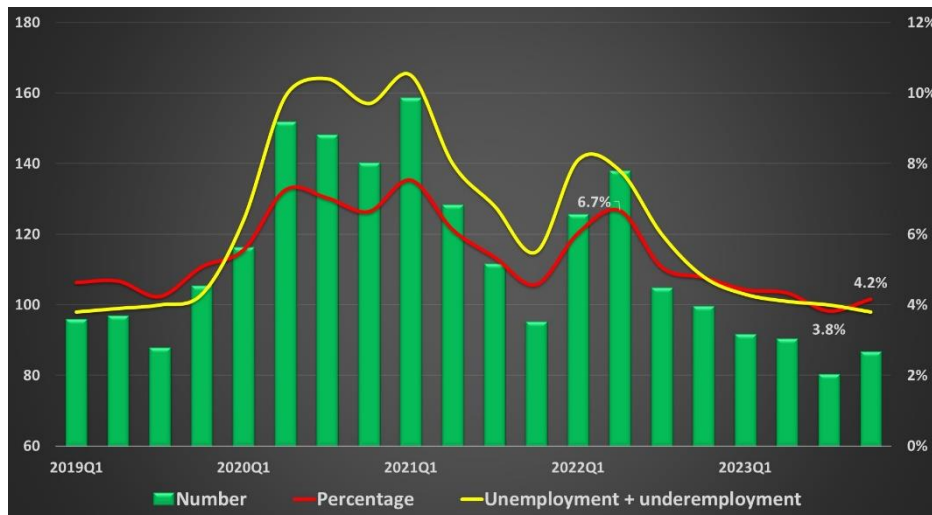


Figure 9: Low-income households (2019Q1 to 2023Q4)



Source: Wages & Labour Costs Statistics Section and General Household Survey Section, C&SD ([www.censtatd.gov.hk/en/web_table.html?id=220-19001; ... id= 210-06313A; ... id= 130-06607A](http://www.censtatd.gov.hk/en/web_table.html?id=220-19001;...id=210-06313A;...id=130-06607A))

The second quarter of 2022 saw the sharpest annual decline in Hong Kong’s labour force, economically active population (excluding MDWs) dropped by 125,000 or 3.5% from a year earlier and was 6.5% below the historic high in the third quarter of 2018. The city’s labour force has since mildly recovered; however, in the fourth quarter of 2023, it was still 5.3% and 4.1% lower than the historic peak and the pre-pandemic level (2019Q4) respectively. The number of employed persons (excluding MDWs) also experienced similar decline; in the final quarter of 2023, it was 5.2% and 3.7% below the historic peak and the pre-pandemic level respectively (Figure 10).

Figure 10: Labour force and employed persons ('000) (2018Q1 to 2022Q4)

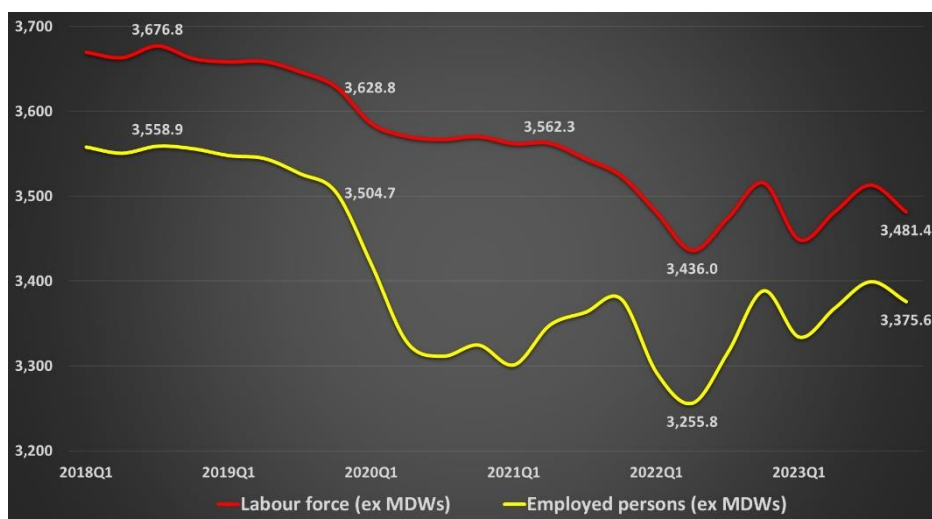
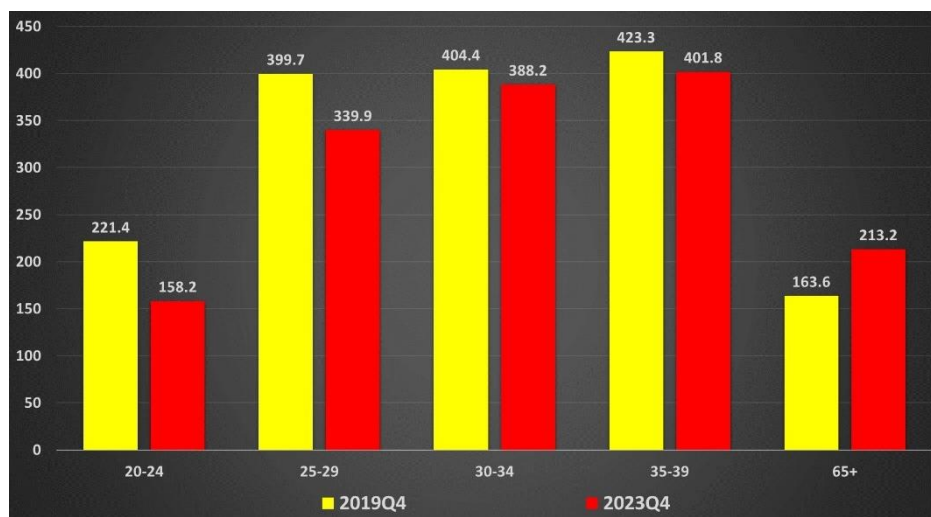


Figure 11: Labour force by selected age groups ('000) (2019Q4 and 2023Q4)



Source: General Household Survey Section, C&SD
 (www.censtatd.gov.hk/en/web_table.html?id=210-06201A)

The contraction in labour force was unevenly spread across age groups. The younger cohorts saw a larger drop in the economically active population, while more older people (aged 65 or above) had participated in the labour market (Figure 11). In the four years to the final quarter of 2023, age groups 20-24 and 25-29 experienced the biggest decline in the labour force, their respective drops are 63,000 (28.5%) and 60,000 (15.0%). Labour force is determined by two factors: the population and the respective labour force participation rates. Based on own estimation from official statistics, it is found that the drops in labour force for aged 30-34 and 35-39 were solely attributable to the respective drops in the population (part of which were offset by their respective rise in participation rate), while for aged 20-24 and 25-29, the decline in participation rate contributed to about respectively 45% and 20% of the contraction (Table 1). Apart from the ageing demographic trend, one possible reason for the decline of population among the younger cohorts is an exodus that has accelerated since 2020 amid the fast-deteriorating socio-political environments and draconian “zero-COVID” measures.³

Table 1: Population and labour force participation rates (ex MDWs) by selected age groups

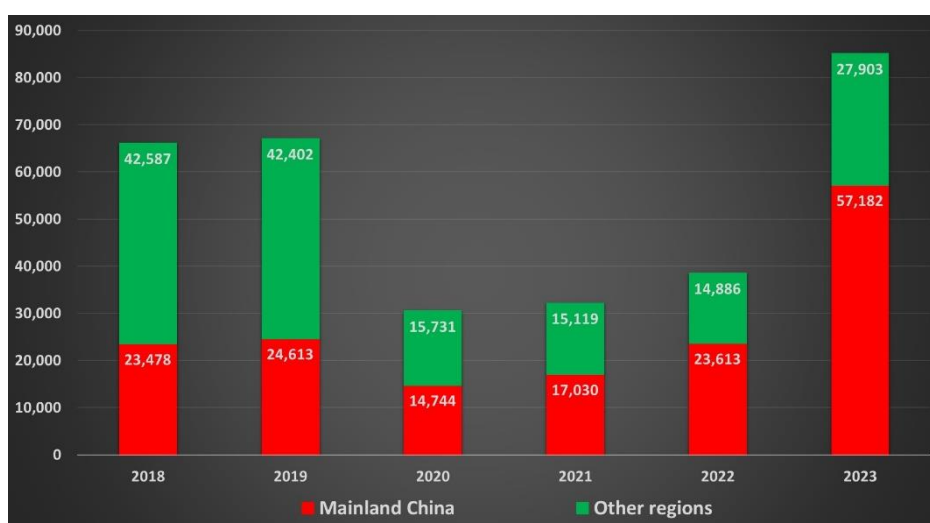
Age groups	Population ('000)		Labour force participation rate		Approximate contribution to change in labour force	
	2019Q4	2023Q4	2019Q4	2023Q4	Population	Participation rate
20-24	373	303	59.4%	51.2%	55%	45%
25-29	450	396	88.9%	85.9%	80%	20%
30-34	477	452	84.8%	85.9%	130%	-30%
35-39	519	484	81.5%	83.0%	135%	-35%
65+	1,288	1,603	12.7%	13.3%	80%	20%

³ For example, South China Morning Post (11 Aug 2022) “113,200 residents leave Hong Kong in 12 months, contributing to 1.6 per cent drop in population, census figures show” (www.scmp.com/news/hong-kong/society/article/3188536/113200-residents-leave-hong-kong-12-months-contributing-16) & CNN (12 Aug 2022) “Hong Kong suffers biggest ever population drop as exodus accelerates” (edition.cnn.com/2022/08/12/asia/hong-kong-population-record-fall-covid-intl-hnk/index.html) [both retrieved 6 March 2024].

Source: General Household Survey Section, Census and Statistics Department (www.censtatd.gov.hk/en/web_table.html?id= 210-06201A)

The mild recovery of Hong Kong’s labour force is in no small part attributable to the influx of migrant managerial and professional workers amid the lifting of all COVID restrictive measures. Visas or entry permits granted under the four major talent admission schemes – General Employment Policy, Admission Scheme for Mainland Talents and Professionals, Quality Migrant Admission Scheme and Immigration Arrangements for Non-local Graduates – totalled 85,000 in 2023, more than double the preceding year.⁴ For comparison, the increase in labour force between mid-2022 and end of 2023 is about 45,000. Among the 85,000 applicants for the admission schemes, around two-thirds came from mainland China, a reverse prior to the COVID outbreak (Figure 12). As *The Economist* explains, Hong Kong has lost its appeal to Westerners.⁵ Many of them left the city because of strict “zero-COVID” policy. They also complain of Beijing’s tightening grip on the territory and consider Hong Kong as just another Chinese city.

Figure 12: Applicants for admission schemes by country of origin (2018 to 2023)



Source: www.immd.gov.hk/eng/facts/visa-control.html; zh.wikipedia.org/wiki/優秀人才入境計劃; zh.wikipedia.org/wiki/非本地畢業生留港/回港就業安排 [retrieved 4 March 2024]

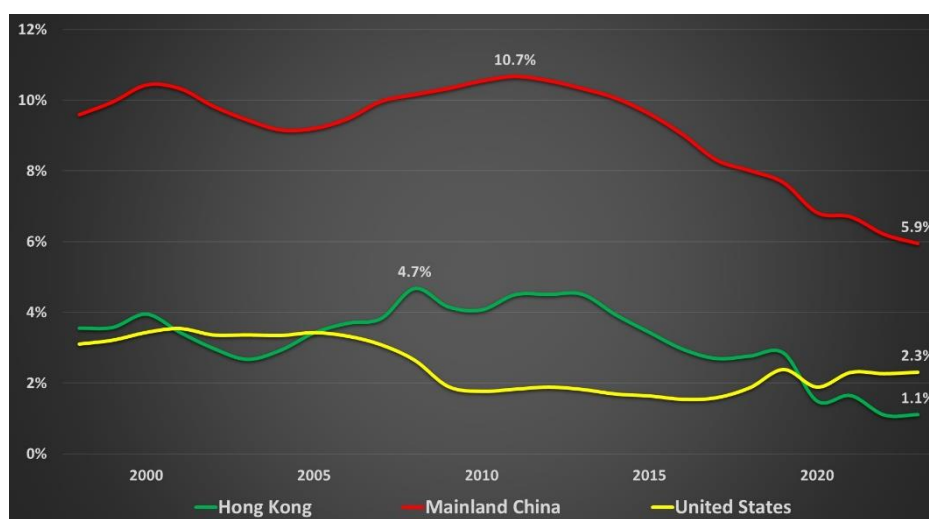
Hong Kong’s economic integration with China has accelerated ever since the 1997 handover. In the last two decades or so, the city’s trend growth rate was more or less in line with that of the mainland, as opposed to that of the United States (Figure 13). When China’s economic growth started losing its pace around 2010, so did Hong Kong. It is widely acknowledged that the Chinese economy is facing severe structural problems, in particular of rising debts, persisting deflationary pressure

⁴ www.immd.gov.hk/eng/facts/visa-control.html [retrieved 6 March 2024]

⁵ The Economist (25 Jan 2024) “Hong Kong is becoming less of an international city” (www.economist.com/china/2024/01/25/hong-kong-is-becoming-less-of-an-international-city [retrieved 6 March 2024]

and declining working population, the city's short-term economic outlook will inevitably be affected.

Figure 13: Annual GDP growth (10-year moving average)



Source: Own calculation from data obtained from www.censtatd.gov.hk/en/web_table.html?id=310-31001; en.wikipedia.org/wiki/Historical_GDP_of_China; fred.stlouisfed.org/series/GDPC1 [retrieved 4 March 2024]

Hong Kong's competitive advantage in the past was acting as a "super-connector" between the mainland and the rest of the world. This role hinges upon the city maintaining its autonomy and uniqueness, but it is fading fast amid Beijing's tightening control on the city. Ratings agency Moody's downgraded Hong Kong's credit outlook to negative from stable in December 2023, citing the erosion of the city's autonomy of political, institutional and economic decisions after the imposition of the NSL in 2020 and the overhaul of the electoral system.⁶

With local labour force declining, competitive advantage eroding and the Chinese economy hitting a wall, Hong Kong's economy is facing severe challenges in medium term, which could eventually have an adverse impact on the labour market.

3. Development in Labour Laws and Policies

Though 2023 saw some developments in Hong Kong's labour laws and policies for better protecting workers, the progress was far from satisfactory. Statutory Minimum Wage (SMW) was raised to HK\$40 an hour on 1 May 2023, a rate which is still not enough to lift vulnerable workers and their families out of poverty. The Labour Advisory Board (LAB) agreed to revise the statutory definition of "continuous employment", but the proposed amendment still excludes some part-time employees from full coverage of statutory benefits. The Government finally promised to study the

⁶ Hong Kong Free Press (17 Dec 2023) "Moody's downgrades Hong Kong credit rating outlook to negative, gov't disagrees" (hongkongfp.com/2023/12/07/moodys-downgrades-hong-kong-credit-rating-outlook-to-negative-govt-disagrees) [retrieved 6 March 2024]

ways to offer some statutory protection to digital platform workers, but preliminary results of the review are not expected until 2026 at the earliest.

On the other hand, amid the shrinking of labour force because of ageing, the Government implemented the ESLs to import more labour, that will inevitably adversely affect the wages of grassroots workers. The Government also intended to revise the Code of Practice for Employment Agencies with a view to further combatting “job-hopping” among MDWs, denying MDWs the rights to work of their own choosing.

Review of Statutory Minimum Wage Adjustment Mechanism

The Government raised the SMW to HK\$40 an hour starting 1 May 2023, after it decided to freeze the rate at HK\$37.5 in 2021 (the SMW rate is reviewed every two years).⁷ The revised SMW rate is however 1.3% lower in real term than four years earlier when it was last adjusted, meaning the city’s most vulnerable workers actually suffer a loss of purchasing power in their remunerations.

The SMW has so far failed to lift workers out of poverty. From the start, the Government has never intended to ensure all workers with decent remunerations and refuses to fix the SMW at a rate sufficient to meet workers and their families’ basic needs, despite the International Covenant on Economic, Social and Cultural Rights mandates otherwise.⁸ The level of SMW is set so low that even if there are two full-time minimum wage workers in a three-person household, it is still not enough to lift them out of poverty.⁹ Since the SMW has failed to keep pace with the growth of market wages, its coverage has significantly reduced from 6.4% of private sector employees when it was first introduced in May 2011 to a merely 0.6% in 2023.¹⁰

The Minimum Wage Commission (MWC), at the request of the government, started on 28 March 2023 a two-stage public consultation on enhancing the review mechanism of the SMW, including the review cycle and how to improve efficiency.¹¹ In the second stage consultation, the MWC asked the public to express views on whether the SMW should be adjusted annually and whether the adjustments of the SMW should be indexed to various indicators such as wage and price levels, economic growth and labour productivity.¹² The review of SMW’s adjustment mechanism is in

⁷ www.info.gov.hk/gia/general/202305/01/P2023042700425.htm [retrieved 7 March 2024]

⁸ See for example Legislative Council (2010) *Official Record of Proceedings* pp. 11,688 & 12,210

⁹ Oriental Daily (30 Apr 2023) 「最低工資輸通脹 打工仔雪上加霜」 (in Chinese) (hk.on.cc/hk/bkn/cnt/news/20230430/bkn-20230430033012627-0430_00822_001.html) [retrieved 7 March 2024]

¹⁰ Census and Statistics Department (various issues) *Report on Annual Earnings and Hours Survey* (available from www.censtatd.gov.hk/en/EIndexbySubject.html?pcode=B1050014&scode=210)

¹¹ www.info.gov.hk/gia/general/202303/28/P2023032700279.htm [retrieved 7 March 2024]

¹² Sing Tao Daily (5 Jun 2023) 「最低工資 | 第二階段公眾諮詢今展開 研檢討周期改「一年一檢」等機制」 (in Chinese) (std.stheadline.com/realtime/article/1930256/即時-港聞-最低工資 | 第二階段公眾諮詢今展開-研檢討周期改-一年一檢-等機制) [retrieved 7 March 2024]

fact long overdue and whether the SMW should be fixed at a rate sufficient to lift workers out of poverty is excluded from the consultation exercise. The Government received a report by the MWC on 31 October and will decide on the way forward by May 2024.¹³

Review of Statutory Definition of “Continuous Employment”

The LAB reached a consensus to relax the statutory definition of “continuous employment” under the Employment Ordinance (EO) in February 2024. “Continuous contract employees” (hereafter “4-18 employees”) are those who had worked for the same employer for at least four consecutive weeks and had worked for at least 18 hours each week (the “4-18 requirement”). They are entitled to such benefits as rest days, paid holidays and annual leave, maternity leave and pay, sickness allowance, severance and long service payments, etc., subject to the satisfaction of the qualifying periods stipulated therein. When the EO was first enacted in 1968, weekly working day and daily working hour thresholds were adopted in the definition of “continuous employment contract”, which is deemed to be a contract for one month renewable from month to month, to provide an objective basis for avoiding any confusion owing to different wage periods and modes of calculating wages.¹⁴ Back then, part-time workers were not regarded as “regular employees” and their exclusion from the coverage of the EO was taken for granted.

A statistics report published in 2021 finds that there were nearly 160,000 private sector employees who usually worked less than 18 hours per week, almost triple the 56,300 in 2009.¹⁵ There were another roughly 10,000 employees who usually worked more than 18 hours per week but not every week. This means that those 170,000 part-time workers can never enjoy the benefits afforded to 4-18 employees, no matter how long they had worked for the same employer.

The 4-18 requirement not only directly discriminates against part-time employees but also indirectly discriminates against women as they made up the majority of non 4-18 employees. As the statutory provisions now stand, it is also open to employers to adopt odd patterns of working hours to evade their statutory responsibilities. The LAB agreed in principle in mid-2023 to revise the requirement by using the aggregate working hours of four weeks as a counting unit and later reached a consensus on setting the four-week working hour threshold at 68 hours.¹⁶

¹³ www.legco.gov.hk/yr2023/english/panels/mp/papers/mp20231121cb2-1034-4-e.pdf, para. 20 [retrieved 7 March 2024]

¹⁴ Hong Kong Legislative Council (1968) *Official Report of Proceedings: Meeting of 23rd August 1968*, p. 373

¹⁵ Census and Statistics Department (2021) *Thematic Household Survey Report No. 72* (available from www.censtatd.gov.hk/en/data/stat_report/product/C0000016/att/B11302722021XXXXB0100.pdf)

¹⁶ www.info.gov.hk/gia/general/202402/01/P2024020100252.htm [retrieved 7 March 2024]

The LAB's proposed amendment is however incompatible with international labour standards on equal treatment for part-time workers. Nor can it prevent employers from evading their statutory obligation by way of, say, engaging the workers under a series of fixed-term contracts and inserting a short break between each contract. Among countries or regions of comparable economic development level, Hong Kong seems to be the only one adopting weekly hours threshold in its labour laws, resulting non 4-18 employees to second-class workers under the law. The Government will draft an amending bill to the EO after consulting the legislature's Panel on Manpower, but no legislative timetable is available at the time of writing.

Statutory Protection for Digital Platform Workers

Access to employment rights depends to a large extent on whether an individual is worked as an employee. The traditional binary categorisation of "subordinate and dependent employee" versus "autonomous and independent self-employed" however gives rise to problem when the status of individuals is so unclear that they cannot be easily classified as being employees or self-employed. This problem becomes more acute as the existing classification fails to reflect recent growth of certain flexible or non-standard forms of employment, including casual work, zero-hours contracts, fixed term and task work, agency work, platform work, freelancing and "dependent self-employment".

With the growing popularity of gig economy in recent years, more and more people have switched to working as digital platform workers in Hong Kong. By adding up the number of registered drivers and delivery workers disclosed by Uber, DiDi, GogoX, Foodpanda and Deliveroo, a study estimates that more than 110,000 workers are now taking orders from the five major digital platforms for paid jobs in delivery and land transportation services, representing about 3% of the total employment in the economy.¹⁷ There are growing public concerns over the ambiguity of the employment status of platform workers who are mostly seen as self-employed without protection under the existing labour laws, particularly after several riders, who were killed or seriously injured in work-related traffic accidents, received little or no compensation from the digital platforms.¹⁸ Though the Labour Tribunal recently finds that employment relationship does exist between delivery platform Zeek and its

¹⁷ LegCo Research and Information Division (2023) "Protection of digital platform workers in Singapore and Spain", *Information Note IN17/2023* (available from app7.legco.gov.hk/rpdb/en/uploads/2023/IN/IN17_2023_20230831_en.pdf). As platform workers may work for several platforms at the same time and on a part-time basis, this estimate is prone to multiple counting.

¹⁸ For instance, see HK01 (14 May 2023) 「外賣車手日與夜 | 遇車禍開腦切脾險死賠\$9000 行業假自僱缺保障」 (in Chinese) (www.hk01.com/article/895788) and The Collective (11 Jul 2023) 「逆權車手2 | 遇車禍重創沒勞保 感恩活著 立志為外賣員爭權益」 (in Chinese) (thecollectivehk.com/逆權車手2 | 遇車禍重創沒勞保%e3%80%80 感恩活著%e3%80%80 立志為) [both retrieved 7 March 2024]

workers, enabling the six claimants to enjoy statutory protection,¹⁹ the tribunal's ruling is not binding and disputes over employment status of other delivery platforms' workers must be determined on a case-by-case basis via litigation.

Despite trade union's repeated calls for introducing legislative provisions to clarify digital platform workers' employment status, the Government remains noncommittal, claiming mandating employment relationship between digital platforms and their workers "may not be conducive to the development of the industry".²⁰ The authorities will instead conduct a statistical survey on the working conditions of digital platform workers and study the way forward in early 2025 when the survey results are available. That means preliminary results of the review will not be available before 2026, and the employment status of digital platform workers remains ambiguous in the foreseeable future.

Importation of Labour

Amid the sharp decline in the city's workforce, the Government decided in June 2023 to import more labour through the ESLs. In addition to a special scheme to import care workers for residential care homes announced in December 2022, the Government introduced another two sector-specific schemes for the construction and transport sectors respectively. The quota for the construction sector is 12,000 and that for the transport sector is 8,000, of which 6,300 for the aviation industry and 1,700 for the public light bus and coach trade. Employers are also allowed, provisionally for two years, to apply for importing workers in 26 job categories, including waiter, junior cook, cashier, hair stylist, delivery worker and driver, which are excluded in the original labour importation scheme.²¹

The ESLs could deal a big blow to the city's grassroots workers. A survey of 208 low-wage workers conducted by the Society for Community Organisation finds that 62% of the respondents were worried their jobs were at stake and 60% expressed concern that employers might lose motivation to improve their treatment of local workers.²² Their worry is confirmed by an investigative story by the Proton Media which finds that wages for imported labour could be 7% to 30% lower than the market

¹⁹ Hong Kong Free Press (19 Jun 2023) "Gig workers win employment status recognition after delivery platform Zeek accused of withholding pay" (hongkongfp.com/2023/06/19/gig-workers-win-employment-status-recognition-after-delivery-platform-zeek-accused-of-withholding-pay) [retrieved 7 March 2024]

²⁰ www.legco.gov.hk/yr2023/english/panels/mp/papers/mp20231219cb2-1132-3-e.pdf, para. 16 [retrieved 7 March 2024]

²¹ www.legco.gov.hk/yr2023/english/brief/ldslc1205c_20230613-e.pdf paras. 12 & 28 [retrieved 7 March 2024]

²² Hong Kong Free Press (2023) "Almost 75% of Hong Kong's low-income workers oppose gov't plan to import labour, survey finds" (hongkongfp.com/2023/08/14/almost-75-of-hong-kongs-low-income-workers-oppose-govt-plan-to-import-labour-survey-finds) [retrieved 7 March 2024]

rates.²³ By comparing the medium wages revealed by the Labour Department and the market wages offered in recruitment advertisements posted on the Interactive Employment Service, the news report finds that, for instance, the minimum allowable wage²⁴ for imported Chinese restaurant waiter is 22% lower than the market rate. For washers, the difference is almost 30%. Members representing worker's interest of the LAB also accused the Government of bypassing the LAB in vetting application for labour importation.²⁵

At the end of 2023, a total of about 16,000 labour importation quotas under the three sector-specific schemes were approved, and a total of 1,113 applications seeking to import 12,745 workers were received (Table 2).

Separately, the Government implemented the TTPS in December 2022 to attract outside talent with high income and academic qualifications to explore opportunities in the city. Eligible applicants are not required to have secured an offer of employment in Hong Kong before application for a two-year visa through the Scheme. At the end of 2023, approximately 51,000 applications were approved, among them about 36,000 have arrived in Hong Kong. In addition, around 36,000 dependents and 21,000 unmarried dependent children also arrived in the city.²⁶

Table 2: Labour importation quotas and applications for importing workers

Scheme	Quotas approved / applications received
Construction	7,184 (including 835 previously approved under SLS)
Aviation	2,841
Public light bus and coach	969 (461 for public light bus and 508 for coach)
Residential care homes	1,003 (excluding just over 4,000 previously approved under SLS)
ESLS	1,113 applications received (seeking to import 12,745 workers, of which 7,255 falling within the previously excluded 26 job categories)

Source: www.devb.gov.hk/en/construction_sector_matters/css/results-of-application/index.html, www.info.gov.hk/gia/general/202308/14/P2023081400316.htm, www.info.gov.hk/gia/general/202309/25/P2023092500347.htm, www.info.gov.hk/gia/general/202311/22/P2023112200250.htm [all retrieved 4 March 2024]

Revisions to the Code of Practice for Employment Agencies

²³ Proton Media (29 Aug 2023) 「輸入外勞工資低於市價 侍應平本地人最多兩成」 (in Chinese) (photonmedia.net/median-wages) [retrieved 7 March 2024]

²⁴ Employers must pay imported workers at least the median monthly wages of relevant posts in Hong Kong under the labour importation scheme.

²⁵ Hong Kong Free Press (14 Jun 2023) "Hong Kong seeks to import 20,000 workers amid labour shortage in construction and transport sectors" (hongkongfp.com/2023/06/14/hong-kong-seeks-to-import-20000-workers-amid-labour-shortage-in-construction-and-transport-sectors) [retrieved 7 March 2024]

²⁶ www.info.gov.hk/gia/general/202401/31/P2024013100245.html [retrieved 7 March 2024]

The Government launched on 21 March 2023 an eight-week consultation on revising the Code of Practice for Employment Agencies with a view to further combatting “job-hopping” among MDWs.²⁷ “Job-hopping” is a pejorative term commonly used to describe MDWs terminate their contracts early to find another employer. The proposed amendments require employment agencies to “clearly explain” to MDWs that applications to change employer before the completion of the standard two-year contract will “normally not be approved,” apart from in “exceptional circumstances” such as the death or financial reasons of the original employers, or where there is evidence that the MDWs have been abused or exploited. The proposal also seeks to prohibit employment agencies from adopting business practices, such as providing monetary incentives to MDWs to induce them to terminate their contract prematurely. The proposed revisions to the Code of Practice have not been effective at the time of writing.

The Immigration Department (ImmD) turned down more than 2,800 visa applications from MDWs who had prematurely terminated their employment contract in 2021, more than double the number of previous four years combined.²⁸ The ImmD explains that a MDW who wishes to have a new employer must leave Hong Kong and submit a fresh employment visa application. For MDWs suspected of job-hopping, the ImmD will not only refuse their employment visa applications, but also keep their application records in assessing any future applications they may make. Workers switching employers for better remunerations is a normal phenomenon in the operation of a market economy. It is also people’s right to work of their own choosing. The government’s detrimental treatments of those MDWs exercising their right to choose their employers freely are amount to a modern form of slavery.

4. Infringements of the Rights to Organise and Freedom of Association

Since the implementation of the draconian NSL on 30 June 2020, at least 13 trade union activists had been arrested, among them seven had been sentenced to jail and three have been remanded in custody. The police also issued arrest warrant for Mung Siu-tat, former Chief Executive of the Hong Kong Confederation of Trade Unions (HKCTU). In addition, the authorities had de-registered two trade unions for allegedly violating the Trade Union Ordinance (TUO).

Arrest of Elizabeth Tang

Elizabeth Tang was arrested on 9 March 2023 for “suspected collusion with a foreign country or with external elements to endanger national security” after visiting her husband Lee Cheuk-yan, who is being detained in Stanley Prison awaiting trial on

²⁷ Hong Kong Free Press (2023) “Hong Kong to launch public consultation on further regulating migrant domestic worker ‘job-hopping’” (hongkongfp.com/2023/03/17/hong-kong-to-launch-public-consultation-on-further-regulating-migrant-domestic-worker-job-hopping/) [retrieved 7 March 2024]

²⁸ www.info.gov.hk/gia/general/202201/19/P2022011900499.htm [retrieved 7 March 2024]

a NSL charge. Tang is the Chief Executive of the HKCTU until 2011 and former director of the now dissolved Asia Monitor Resource Centre (AMRC). It is reported that Tang, as a director of the AMRC, was suspected of “receiving more than HK\$100 million (US\$12.7 million) in donations from groups in the United States, Germany and Norway since 1994 to support labour movements in Asia”.²⁹ The AMRC, which was registered as a limited company in Hong Kong, decided in September 2021 to cease operations after being accused by PRC’s local propaganda arm *Ta Kung Pao* of operating under the HKCTU, which was allegedly colluding with overseas organisations.

Tang was reportedly granted HK\$200,000 bail on 11 March and must surrender her travel documents. The police on the same day also arrested her younger sister **Marilyn Tang** and counsel Frederick Ho on suspicion of conspiracy to pervert the course of justice. Both were granted bail later that day.³⁰ Marilyn Tang, who is also former Executive Director of the now dissolved HKCTU Training Centre, was formally charged in late September for allegedly removing her sister’s mobile phone and laptop before a police search. She pleaded guilty before a magistrate judge on 7 December and was sentenced to six months imprisonment two weeks later.³¹

²⁹ South China Morning Post (9 Mar 2023) “Unionist wife of jailed Hong Kong opposition politician Lee Cheuk-yan arrested by national security officers after prison visit” (www.scmp.com/news/hong-kong/law-and-crime/article/3212918/wife-jailed-hong-kong-opposition-politician-arrested-national-security-officers-after-prison-visit) [retrieved 8 March 2024]

³⁰ South China Morning Post (11 Mar 2023) “Sister of ex-union leader Elizabeth Tang and brother of Hong Kong opposition veteran Albert Ho released on bail” (www.scmp.com/news/hong-kong/law-and-crime/article/3213186/hong-kong-national-security-law-unionist-wife-jailed-ex-opposition-politician-lee-cheuk-yan-released) [retrieved 8 March 2024]

³¹ Hong Kong Free Press (21 Dec 2023) “Hong Kong woman jailed for 6 months over removing potential evidence against sister arrested under nat. security law” (hongkongfp.com/2023/12/21/hong-kong-woman-jailed-for-6-months-over-removing-potential-evidence-against-sister-arrested-under-nat-security-law) [retrieved 8 March 2024]

Taking away of former HKCTU officials

At least four former ExCo members of the HKCTU, including chair **Joe Wong**, vice-chair **Leo Tang** and member **Denny To**, were taken by the national security police on 22 March 2023 to assist an investigation. Former treasurer **Chung Chun-fai** was also taken away a day earlier and members of several labour organisations were contacted by the police in a two-day operation, according to a report of *Ming Pao Daily*.³² Details of the investigation are not known to the public because of confidentiality terms under Article 63 of the NSL. National security police's second operation targeting the city's trade unionists in as many weeks has inevitably created a climate of fear among trade union members, which is certainly not conducive to the effective functioning of worker's organisations.

Arrest warrant against Mung Siu-Tat

The police announced on 3 July 2023 arrest warrants had been issued against **Mung Siu-tat** and seven other individuals accused of violating the NSL and offered HK\$1 million in reward money for information leading to each arrest. This is another example of PRC's comprehensive campaign of transnational repression to silence dissent among exiles.

Mung is former Chief Executive of the HKCTU and currently Executive Director of the Hong Kong Labour Rights Monitor (HKLRM), an UK-based labour group formed by exiled trade unionists among others aiming to speak up for the workers of Hong Kong and amplify their voices around the world. He was accused of smearing the PRC and Hong Kong Governments while attending an overseas conference (seemingly the French Democratic Confederation of Labour congress held in Lyon) in June 2022 and advocating separating Hong Kong from China, allegedly violating Article 21 of the NSL (incitement to secession). Given that Mung has never called for Hong Kong's independence, it is not unreasonable to perceive that police's high-profile action is in fact targeting his labour advocacy work overseas. A government source also confessed that Mung and the other seven were singled out because they were "more actively involved" than the rest in activities that "endangered national security".³³

The authorities also pointed out that they would continue to identify Mung and the other seven individuals' accomplices in Hong Kong and appealed to the public to cut tie with them, emphasising that even sharing their social media posts could risk violating the law.³⁴ Two days after putting up bounties, national security police

³² Ming Pao Daily (23 Mar 2023) 「前工盟 6 人國安處助查 無被捕 其他勞團成員曾被接觸 原因未明」 (in Chinese) (www.mingpaocanada.com/tor/htm/News/20230323/HK-gba1_r.htm) [retrieved 8 March 2024]

³³ South China Morning Post (3 Jul 2023) "Hong Kong national security law: police offer HK\$1 million rewards for arrest of 8 people, including 3 ex-lawmakers" (www.scmp.com/news/hong-kong/law-and-crime/article/3226372/hong-kong-national-security-law-police-offer-hk1-million-rewards-arrest-8-people) [retrieved 8 March 2024]

³⁴ *Ibid.*

arrested four people, accusing them of “conspiracy to collude with a foreign country or with external elements to endanger national security” by supporting Nathan Law, one of the person wanted.³⁵ Police’s series of operations undoubtedly serve as a warning to the city’s trade unionists against establishing ties or collaborating with Mung or the HKLRM.

Updates of legal proceedings against other trade unionists

Former General Secretary of the HKCTU **Lee Cheuk-yan** was sentenced to a total of 20 months in jail by the District Court in three separate trials for organising peaceful, albeit unauthorised, assemblies on 18 & 31 August and 1 October 2019 and 4 June 2020.³⁶ The Court of Appeal on 14 August 2023 allowed his and six other activists’ appeal against the conviction of organising an unauthorised assembly held on 18 August 2019 but upheld the lower court’s verdict on knowingly participating in the rally.³⁷ The Court of Final Appeal granted leave for their appeal on arguing whether “a statutory defence of lawful excuse could be established if authorities had violated a protester’s basic rights” and a full hearing is expected in June 2024.³⁸

Lee was also arrested (while in prison) on 9 September 2021 and charged with inciting subversion of state power under the NSL. He has been remanded in custody since finished serving his jail terms on 30 September 2022. A second case management hearing is scheduled on 24 April 2024, when a panel of three national security judges will decide on the trial date, which is expected to be not earlier than November.³⁹

Former HKCTU chair **Carol Ng** and former chair of the Hospital Authority Employees Alliance (HAEA) **Winnie Yu** were arrested on 6 January 2021 and charged on 28 February on suspicion of conspiracy to subversion over their participation in the unofficial primary election organised by the pro-democracy camp in July 2020. They were denied bail on 4 March 2021 and are remanded in custody. The trial, which started in February 2023, is overseen by a panel of three designated High Court judges handpicked by the Chief Executive and not a jury. Ng indicated her intention to plead

³⁵ BBC (6 Jul 2023) “Four arrested in Hong Kong after bounty set up for activists abroad” (www.bbc.co.uk/news/world-asia-66117142) [retrieved 8 March 2024]

³⁶ The Standard (13 Dec 2021) “Eight Hong Kong activists jailed for up to a year and two months over June 4 vigil” (www.thestandard.com.hk/breaking-news/section/4/184432/Eight-Hong-Kong-activists-jailed-for-up-to-a-year-and-two-months-over-June-4-vigil) [retrieved 8 March 2024]

³⁷ The Guardian (14 Aug 2023) “Hong Kong pro-democracy advocates have part of convictions quashed” (www.theguardian.com/world/2023/aug/14/hong-kong-pro-democracy-advocates-have-part-of-convictions-quashed-jimmy-lai-martin-lee-margaret-ng) [retrieved 8 March 2024]

³⁸ South China Morning Post (5 Mar 2024) “Hong Kong’s media tycoon Jimmy Lai, 6 ex-lawmakers had no excuse for joining illegal 2019 march, top court rules” (www.scmp.com/news/hong-kong/law-and-crime/article/3254234/hong-kongs-media-tycoon-jimmy-lai-6-ex-lawmakers-had-no-excuse-joining-illegal-2019-march-top-court) [retrieved 8 March 2024]

³⁹ Hong Kong Free Press (19 Feb 2024) “Nat. security trial for Tiananmen crackdown vigil group members to begin November at earliest” (hongkongfp.com/2024/02/19/nat-security-trial-for-tiananmen-crackdown-vigil-group-members-to-begin-november-at-earliest) [retrieved 8 March 2024]

guilty at a case management hearing in November 2022.⁴⁰ Yu pleaded not guilty and finished her testimony in August 2023. Her defence counsel told the court on 29 November in his closing statement that Yu was “simply seeking to hold those in power to account and that could be not subversion”.⁴¹ The court is expected to deliver its verdict and hand down sentencing in the second quarter of 2024 at the earliest.

A summary of the arrested trade unionists can be found at Annex II.

De-registration of trade unions

The Registrar of Trade Unions (RTU) de-registered the **Hong Kong White Collar (Administration and Clerical) Connect Union (HKWCCU)** on 17 February 2023, just a day after a high ranking government official told the UN Committee on Economic, Social and Cultural Rights that the city’s trade union rights were as “strong and intact as ever”.⁴² The TUO prohibits the use of union fund for any political purpose. It grants the RTU extensive powers to “supervise” trade union operations and activities, including sending enquiry and warning letter to trade unions. The RTU is also empowered to cancel the registration of trade unions and the unions concerned can only appeal against the decision to the High Court. Most trade unions however cannot afford the legal fees incurred, rendering the appeal clause worthless.

Prior to its de-registration, the HKWCCU was asked to provide information about its activities, including street stalls and commentaries about COVID related policies, solidarity action in support of HAEA’s strike, assistance in pro-democracy camp’s primaries and opposition to the NSL.⁴³ The union contended that promoting democracy, defending civil liberties, commenting government’s social policies as well as supporting other trade unions through solidarity actions were all legitimate activities protected by international labour conventions and in line with the union’s own constitution. The HKWCCU did not appeal the RTU’s decision.

The de-registration of the HKWCCU is the second such case since the NSL took effect on 30 June 2020. Shortly after the police arrested five ExCo members of the **General Union of Hong Kong Speech Therapists** over the publication of three children’s picture books, the RTU issued a “notice of intention to cancel the registration” to the union on 13 August 2021, alleging that it is being used for purposes

⁴⁰ Hong Kong Free Press (8 Nov 2022) “17 Hong Kong democrats set to face 90-day national security trial in early 2023 over unofficial primaries” (hongkongfp.com/2022/11/08/17-hong-kong-democrats-set-to-face-90-day-national-security-trial-in-early-2023-over-unofficial-primaries) [retrieved 8 March 2024]

⁴¹ The Guardian (29 Nov 2023) “Closing arguments begin in trial of Hong Kong pro-democracy activists” (www.theguardian.com/world/2023/nov/29/closing-arguments-begin-in-trial-of-hong-kong-pro-democracy-activists) [retrieved 8 March 2024]

⁴² Hong Kong Free Press (17 Feb 2023) “Hong Kong gov’t deregisters pro-democracy union that called for protest ahead of security law” (hongkongfp.com/2023/02/17/hong-kong-govt-deregisters-pro-democracy-union-that-called-for-protest-ahead-of-security-law) [retrieved 8 March 2024]

⁴³ Hong Kong Free Press (11 Jan 2022) “Hong Kong authorities grill union which held street stalls on Covid-19 and national security law” (hongkongfp.com/2022/01/11/hong-kong-authorities-grill-union-which-held-street-stalls-on-covid-19-and-national-security-law) [retrieved 8 March 2024]

inconsistent with its objects or rules.⁴⁴ The union did not appeal the decision and was officially de-registered on 13 October. The police also froze around HK\$160,000 of the union's assets in accordance with the sweeping Implementation Rules made under Article 43 of the NSL.

Prohibition on group gathering

Crises are convenient pretext to restrict civil liberties, and in the COVID outbreak, for the sake of public health. The Government enacted the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) in March 2020, banning all gatherings of more than four people in public areas, both indoor and outdoor.

The authorities frequently made use of Cap. 599G restrictions as a tool to intimidate trade union's legitimate activities. On 1 May 2020, Lee Cheuk-yan and seven members of the HKCTU and other labour organisations were pushed back by police officers to stop them from proceeding to the Government Headquarters. They were later charged with breach of Cap. 599G and were sentenced on 10 March 2021 to 14 days imprisonment, suspended for 18 months.⁴⁵ A High Court judge dismissed their appeal on 18 October 2022 and upheld the legality of Cap. 599G on grounds that the ban had struck "the right balance between safeguarding public health and respecting personal freedom" and "they could still express their views as long as they observed the social-distancing rule".⁴⁶ The Court of Final Appeal on 4 September 2023 rejected Lee and three others' application for leave to appeal, citing the case is not of great importance as Cap. 599G is "no longer part of the law".⁴⁷

On various occasions, trade union members, while distributing pamphlets on labour rights under COVID-19, were harassed by the police, and some of them were issued fixed penalty tickets under Cap. 599G. **Ten members of the Construction Site Workers General Union**, for instance, were issued fixed penalty notices for participating in a prohibited group gathering over a street booth they held in Admiralty on 6 May 2020, where they handed out anti-epidemic supplies. Four of them contested the charge and defended their cases before a magistrate judge in May 2023.

⁴⁴ The Standard (20 Aug 2021) "Govt to revoke registration of speech therapists' union" (www.thestandard.com.hk/breaking-news/section/4/179110/Govt-to-revoke-registration-of-speech-therapists'-union) [retrieved 8 March 2024]

⁴⁵ Hong Kong Free Press (11 March 2021) "8 democrats sentenced over breach of Covid-19 gathering limit over Labour Day protest" (hongkongfp.com/2021/03/11/8-democrats-sentenced-over-breach-of-covid-19-gathering-limit-over-labour-day-protest) [retrieved 8 March 2024]

⁴⁶ South China Morning Post (18 Oct 2022) "Hong Kong protests: 8 activists lose appeal after judge upholds legality of Covid gathering ban" (www.scmp.com/news/hong-kong/law-and-crime/article/3196348/hong-kong-protests-8-activists-lose-appeal-after-judge-upholds-legality-covid-gathering-ban) [retrieved 8 March 2024]

⁴⁷ Hong Kong Free Press (4 Sep 2023) "4 Hong Kong democrats' bid for final appeal against Covid-related convictions rejected by top court" (hongkongfp.com/2023/09/04/4-hong-kong-democrats-bid-for-final-appeal-against-covid-related-convictions-rejected-by-top-court) [retrieved 8 March 2024]

They were fined HK\$6,000 each on 4 August after found guilty of breaching Cap. 599G.⁴⁸

5. Trade Union Activities and Worker's Collective Actions

Amid the fast-worsening political environments, hundreds of trade unions or labour organisations have been dissolved, stopped operations or withdrawn from Hong Kong. A total of 218 trade unions cancelled their registration between 2021 and 2023, and union membership fell by 7.6% in 2022 from three years earlier. With the police's tightening control on civil society activities and the RTU keeping a close eye on every activity organised by independent trade unions, worker's collective actions have almost disappeared in the public sphere and trade union activities were largely confined to those relating to narrow occupational interests.

Dissolution of trade unions

42 trade unions cancelled their registration in 2023 through dissolution or at their own request.⁴⁹ Among them is the **HAEA**, which staged a five-day strike from 3 to 7 February 2021, with an estimated 6,000 strong medical workers taking part, demanding adequate personal protective equipment for public hospital staff and border closures to contain the COVID outbreak. The union passed a resolution at an extraordinary general meeting on 23 June 2022 to dissolve the union, saying it had faced "political oppression" and "white terror" on a Facebook post.⁵⁰ The HAEA was officially removed from the trade union register on 24 March 2023.

The **Hong Kong Professional Teachers' Union** (HKPTU) announced on 9 November 2023 that the union had, prior to its formal dissolution, completed all regulatory audit, investigation undertaken by the Inland Revenue Department and settlement of outstanding tax liabilities.⁵¹ The city's largest independent trade union, with 95,000 members representing 90% of the profession, would start distributing the surplus fund to its qualified members, each of them would receive HK\$3,190. The HKPTU passed a special resolution to disband on 11 September 2021. The union's decision came after PRC's propaganda apparatus, the *People's Daily* and Xinhua, simultaneously published two commentaries accusing the union of "encouraging anti-

⁴⁸ Hong Kong Free Press (4 Aug 2023) Hong Kong pro-democracy union members fined HK\$6,000 over Covid-19 supplies street booth (hongkongfp.com/2023/08/04/hong-kong-pro-democracy-union-members-fined-hk6000-over-covid-19-supplies-street-booth) [retrieved 8 March 2024]

⁴⁹ Registry of Trade Unions (2024) *Preliminary 2023 Statistics of Trade Unions in Hong Kong* (available from www.labour.gov.hk/common/public/rtu/PSTUHK2023.pdf)

⁵⁰ Hong Kong Free Press (27 Jun 2022) "Hong Kong hospital staff union votes to disband citing 'pressure from all sides'" (hongkongfp.com/2022/06/27/hong-kong-hospital-staff-union-votes-to-disband-citing-pressure-from-all-sides) [retrieved 11 March 2024]

⁵¹ www.facebook.com/photo?fbid=638683295118692&set=a.276338494686509 (in Chinese) [retrieved 11 March 2024]

China activities that mess up Hong Kong” and blasting it as a “poisonous tumour” that must be “eradicated”.⁵²

A total of 218 trade unions had cancelled their registration through dissolution or at their own request between 2021 and 2023, compared with only 11 during the preceding three-year period.⁵³

Decline in union membership

Despite the surge in the number of registered trade unions from 917 in 2019 to 1,454 in 2022, union membership was actually declined over the same period. The number of declared trade union members fell by 7.6%, from 934,000 to 863,000. Consequently, the average size of union significantly dropped by nearly 42%, from 1,019 to 594. At the same time, the number of unions with membership of 50 or less almost tripled, from 287 jumped to 813.⁵⁴ Contrary to the government’s claim that the significant increase in the number of registered trade unions demonstrates that Hong Kong’s trade union rights are strong and intact as ever,⁵⁵ the decline in union membership and union size actually reflects the further weakening and fragmentation of the city’s trade union movement.

Some trade union organisers reveal that they face great challenges in recruiting and retaining members, partly because workers feel that the risk is too great or there is little can do under current environments. It is expected that union membership will further drop to around 770,000, or a decrease of more than one-sixth from 2019, when the HKPTU is officially removed from the trade union register.

Labour Day Rally 2023 axed

Since the enactment of Cap. 599G, the police have not approved any public processions, citing COVID health concerns.⁵⁶ As a result, there was no Labour Day rally between 2020 and 2022.

With the lift of Cap. 599G restrictions towards the end of 2022, two former ExCo members of the HKCTU Joe Wong and Denny To applied to the police “in their

⁵² Hong Kong Free Press (10 Aug 2021) “Hong Kong’s largest teachers’ union to disband following pressure from gov’t and Chinese state media” (hongkongfp.com/2021/08/10/breaking-hong-kongs-largest-teachers-union-to-disband-following-pressure-from-govt-and-chinese-state-media) [retrieved 11 March 2024]

⁵³ Registry of Trade Unions (various issues) *Annual Statistical Report of Trade Unions in Hong Kong* (available from www.labour.gov.hk/eng/public/content2_4a.htm)

⁵⁴ *Ibid.*

⁵⁵ For instance, then Commissioner for Labour Chris Sun’s reply at the 109th International Labour Conference session (www.ilo.org/dyn/normlex/en/f?p=1000:13101:0::NO:13101:P13101_COMMENT_ID:4054077) [retrieved 11 March 2024]

⁵⁶ Hong Kong Free Press (30 Jan 2023) “No protest rallies approved in 3 years due to ‘health’ concerns, say Hong Kong security chief” (hongkongfp.com/2023/01/30/no-protest-rallies-approved-in-3-years-due-to-health-concerns-say-hong-kong-security-chief) [retrieved 11 March 2024]

own names” on 9 April 2023 for staging a Labour Day rally.⁵⁷ They however withdrew their application on 26 April after Wong had gone missing for four hours in that morning. To later explained that Wong was taken away by the police but not arrested, adding Wong had experienced “emotional meltdown” and suffered “tremendous pressure”.⁵⁸ To did not elaborated further, citing confidentiality terms under Article 63 of the NSL. A police spokesman later said that “organisers of demonstrations are legally responsible for maintaining public order and safety”, and warned the public against participating in unauthorised assemblies.⁵⁹

A few weeks earlier, the **Hong Kong Women Workers’ Association (HKWWA)** also hastily scrapped a police-approved Women’s Day rally, which was to be held on 4 March 2023, without giving any reason. The decision was made just a dozen of hours before the event being held. The police later said that some violent groups vowed to attend and “hijack” the rally, adding the HKWWA decided to cancel the event after “balancing the interests of all parties”.⁶⁰

Trade union activities obstructed

With the Labour Day rally cancelled, Denny To and three representatives of the **Cleaning Service Industry Workers Union** and **Hong Kong Buildings Management and Security Workers General Union** went to Tsuen Wan Station on 1 May 2023, planning to explain to workers the government’s proposal to import more foreign labours. Before they arrived, around 12 policemen had already stationed outside the MTR station, and monitored the unions’ activities at close range from beginning to end. To pointed out that police’s high-profile presence had deterred people from approaching their street booth, seriously hindering the unions from communicating with workers.⁶¹

Activities of other labour organisations were also obstructed by the police. For instance, a police officer on the Labour Day 2023 stopped members of the HKWWA from unfurling and walking with a banner, saying that they were only allowed to show

⁵⁷ Hong Kong Free Press (12 Apr 2023) “Two ex-members of Hong Kong pro-democracy union group apply to hold public rally on Labour Day” (hongkongfp.com/2023/04/12/two-ex-members-of-hong-kong-pro-democracy-union-group-apply-to-hold-public-rally-on-labour-day) [retrieved 11 March 2024]

⁵⁸ South China Morning Post (26 Apr 2023) “Former leader of defunct Confederation of Trade Unions in Hong Kong withdraws Labour Day rally application after ‘being taken away’” (www.scmp.com/news/hong-kong/politics/article/3218407/former-leader-defunct-confederation-trade-unions-hong-kong-withdraws-labour-day-rally-application) [retrieved 11 March 2024]

⁵⁹ The Standard (27 Apr 2023) “Unionists scrap rally call” (www.thestandard.com.hk/section-news/section/11/251966/Unionists-scrap-rally-call) [retrieved 11 March 2024]

⁶⁰ Hong Kong Free Press (3 Mar 2023) “Hong Kong women’s group cancels rally night before demo; police say ‘violent groups’ sought to attend” (hongkongfp.com/2023/03/04/hong-kong-womens-group-cancels-rally-night-before-demo-police-say-violent-groups-sought-to-attend) [retrieved 11 March 2024]

⁶¹ The Collective (1 May 2023) 「勞動節 | 「取消」5.1 遊行後 工會四人擺街站 12 警戒備」 (in Chinese) (thecollectivehk.com/勞動節 | 「取消」5-1 遊行後%E3%80%80 工會四人擺街站%E3%80%8012 警) [retrieved 11 March 2024]

the banner when standing outside the Government Headquarters. Police also told the group that they must comply with the NSL and inform police if they discover any activity that would harm national security.⁶²

Worker's Collective Actions

The **Cathay Pacific Airways Flight Attendants Union (FAU)** decided to stage a “work-to-rule” industrial action starting 19 January 2023 after the management had since 2021 repeatedly refused to negotiate with the union over increasing the number of staffers for returning flights and introducing minimal rest time during overseas layovers.⁶³ The airline in November 2020 unilaterally withdrew from the union recognition agreement with the FAU, calling it an “outdated practice”.⁶⁴ Instead of actively promoting the machinery of collective bargaining, an obligation under ILO Convention 98, the Government just stood on the side-lines when Cathay Pacific unilaterally walked away from the bargaining table and refused to negotiate with the FAU over staffing and rostering issues.

Spontaneous collective actions organised by other workers also occurred sporadically. In the past year, there were more than a dozen protests staged by construction site workers mainly over wage arrears. For instance, about 30 workers on 3 March 2023 blocked the road leading to a construction site in Tai Po Kau with water barriers and iron frames, seeking to recover about HK\$700,000 in arrears of wage, and warned of escalating their actions if no progress was made.⁶⁵ These collective actions typically involve several to dozens of workers and are usually settled when the principal contractors agree to pay back wages.

Artist-cum-activist **Luke Ching** continued his innovative campaign for improving the remunerations and working conditions of MTR's outsourced cleaning workers. Taking the opportunity of the city's annual art event, Art Basel 2023, Ching raised some funds and bought an advertisement at Tai Wai MTR station to teach subway passengers how to handle their rubbish.⁶⁶ With the continued collaboration

⁶² Hong Kong Free Press (1 May 2023) “Police issue national security ‘reminders’ to Labour Day activists as mass demos axed” (hongkongfp.com/2023/05/01/police-issue-national-security-reminders-to-labour-day-activists-as-mass-demos-axed) [retrieved 11 March 2024]

⁶³ The Standard (30 Dec 2022) “Flight attendants union issues ‘work-to-rule’ ultimatum to Cathay Pacific” (www.thestandard.com.hk/breaking-news/section/4/198685/Flight-attendants-union-issues-'work-to-rule'-ultimatum-to-Cathay-Pacific) [retrieved 11 March 2024]

⁶⁴ South China Morning Post (27 Nov 2020) “Cathay Pacific snubs union over pay talks and says it will contact staff directly, in move flight attendants’ group calls ‘greatest setback’ in a decade” (www.scmp.com/news/hong-kong/transport/article/3111621/cathay-pacific-snubs-union-over-pay-talks-and-says-it-will) [retrieved 11 March 2024]

⁶⁵ InMedia HK (6 Mar 2023) 「大埔地盤欠薪 70 萬 約 30 名工人一度堵路追討」 (in Chinese) (www.inmediahk.net/node/勞工/大埔地盤欠薪 70 萬-約 30 名工人一度堵路追討) [retrieved 11 March 2024]

⁶⁶ Lam, Oiwan (2023) “How one artist is attempting to change Hong Kong’s work culture” (globalvoices.org/2023/12/28/how-one-artist-is-attempting-to-change-hong-kongs-work-culture) [retrieved 11 March 2024]

between Ching and several cleaner's unions, the MTR finally agreed at the end of 2023 to raise the hourly wage of outsourced cleaning workers to HK\$50 starting February 2024 and offer a 6% gratuity after one year's service.⁶⁷

6. Epilogue

Although 2023 saw Hong Kong's unemployment and underemployment rates dropped to near historic lows and real wage level started picking up, the improvement of the city's labour market may not be sustainable in the next couple of years. As the population ages and the emigration wave continues, a shrinking workforce will inevitably undermine Hong Kong's economic growth potential. Beijing's tightening grip on Hong Kong has rapidly eroded the city's competitive advantage as a "super-connector" between the mainland and other parts of the world. The Chinese economy is slowing down and facing a series of structural problems, making the city's economy full of uncertainties. In the medium term, Hong Kong's economic prospects are far from optimistic, which could adversely impact on the city's labour market.

Since the promulgation of the NSL, the Government's crackdown on the city's trade unions has never relaxed. The legislation for Article 23, the city's homegrown national security law, was hastily passed on 19 March 2024, just 11 days after the bill was gazetted on 8 March. The ordinance, among others, grants the Secretary for Security powers to prohibit operations of any organisations (including trade union and labour group) on grounds of national security, raises maximum penalty for sedition to 10 years from two years and criminalises collaboration with an external force to do an act with intent to bring about an interference effect. These provisions will undoubtedly further limit the space for trade union's operation and functioning. Despite all these difficulties, the city's trade union organisers and labour right activists have never stopped exploring the way to break through the current predicament and workers have started organising themselves without the assistance of trade unions to defend their own rights. Worker's resistance will never disappear because of worsening socio-political environments.

⁶⁷ InMedia HK (3 Jan 2024) 「港鐵外判清潔工時薪加至 50 元 惟未正面回應是否將減少人手」 (in Chinese) (www.inmediahk.net/node/政經/港鐵外判清潔工時薪加至 50 元-惟未正面回應是否將減少人手) [retrieved 11 March 2024]

Annex I: State of Labour in Hong Kong 2023 – Major Events

Date	Major Events	Page
19 Jan	The FAU staged a “work-to-rule” industrial action after the management had repeatedly refused to negotiate with the union over staffing and rostering issues since 2021	23
6 Feb	Former chair of the HAEA Winnie Yu pleaded not guilty on the charge of conspiracy to subversion, the trial adjourned in early December after all defendants finished their closing statements.	17
17 Feb	The HKWCCU was de-registered by the RTU	18
4 Mar	The HKWWA scrapped a police-approved Women’s Day rally to be held the next day	22
9 Mar	Former director of the AMRC Elizabeth Tang was arrested on suspicion of colluding with foreign elements to endanger national security	15
11 Mar	Former Executive Director of the HKCTU Training Centre Marilyn Tang was arrested on suspicion of conspiracy to pervert the course of justice, she was sentenced to six months imprisonment on 21 December	15
21 Mar	The Government launched an eight-week consultation on revising the Code of Practice for Employment Agencies with a view to further combatting “job-hopping” among MDWs	14
21-22 Mar	A dozen of members of several labour organisations, including at least four former ExCo members of the HKCTU, were taken away by the police to assist an investigation	16
24 Mar	The HAEA was officially removed from the trade union register	20
28 Mar	The MWC started a two-stage consultation on enhancing the review mechanism of the SMW, the MWC submitted a report to the government on 31 October	10
9 April	Two former ExCo members of the HKCTU Joe Wong and Denny To applied for staging a Labour Day rally, they withdrew their application on 26 April after Wong was taken away by the police in that morning	21
1 May	12 policemen monitored unions’ activities at close range outside Tsuen Wan Station, hindering the unions from communicating with workers	22
1 May	The SMW rate was raised to HK\$40 an hour, which is 1.3% lower in real term than four years earlier when the SMW was last adjusted	9
3 Jul	The police announced arrest warrant had been issued for former Chief Executive of the HKCTU Mung Siu-tat for violating the NSL	16
17 Jul	Labour Importation Schemes for the Construction and Transport Sectors launched	12
4 Aug	Four union members were fined HK\$6,000 each for breaching Cap. 599G over a street booth they held in Admiralty on 6 May 2020	19
14 Aug	The Court of Appeal allowed Lee Cheuk-yan and six other activists’ appeal against the conviction of organising an unauthorised assembly on 18 August 2019 but upheld the lower court’s verdict on knowingly participating in the rally	17

Date	Major Events	Page
4 Sep	The CFA rejected Lee Cheuk-yan and three others' application for leave to appeal their conviction of breaching Cap. 599G over a Labour Day rally in 2020	19
4 Sep	Enhanced Supplementary Labour Scheme launched	13
9 Nov	The HKPTU announced it had, prior to its formal dissolution, completed all regulatory audit, investigation undertaken by the Inland Revenue Department and settlement of outstanding tax liabilities	20
12 Dec	The Government announced a survey on the working conditions of digital platform workers would be conducted in 2024	12
Dec	The MTR agreed to raise the wage of outsourced cleaning workers to HK\$50 an hour starting Feb 2024	23
1 Feb 2024	The LAB reached a consensus on revising the definition of "continuous employment" under the EO	11

Annex II: List of Arrested Trade Union Leaders since the Promulgation of the National Security Law

Name	Trade union	Date of first arrest	Charges (reason of arrest if not charged)	Status
Lee Cheuk-yan	General secretary, HKCTU	28 Feb 2021	Organising and knowingly participating in unauthorised assemblies (18 & 31 Aug and 1 Oct 2019 and 4 Jun 2020)	Sentenced to a total of 20 months imprisonment; finished serving on 30 Sep 2022; Court of Appeal in Aug 2023 allowed an appeal against the conviction of organising unauthorised assembly held on 18 Aug 2019
		(Summon)	Obstructing a police officer	Sentenced to three weeks imprisonment (one week concurrent); finished serving on 30 Sep 2022
		9 Sep 2021	Inciting subversion	Denied bail on 2 Dec 2022; pending trial (High Court, second case management scheduled 24 Apr 2024, trial not earlier than Nov 2024)
Carol Ng	Chair, HKCTU	6 Jan 2021	Conspiracy to commit subversion	Denied bail on 4 Mar 2021; pledged guilty on 3 Nov 2022, pending sentencing (High Court, expected second quarter 2024)
Winnie Yu	Chair, HAEA	6 Jan 2021	Conspiracy to commit subversion	Denied bail on 4 Mar 2021; granted bail on 28 Jul 2021; bail revoked on 8 Mar 2022; pledged not guilty on 6 Feb 2023 before a panel of three High Court judges; finished closing statement in Nov, trial adjourned in Dec (verdict expected second quarter of 2024)
Joseph Lee	Chair, AHKNS*	6 Jan 2021	(Conspiracy to commit subversion)	On police bail
Cyrus Lau	ExCo member, AHPNA**	6 Jan 2021		

Name	Trade union	Date of first arrest	Charges (reason of arrest if not charged)	Status
Lai Man-ling	Chair, GUHKST	22 Jul 2021	Publishing and circulating seditious materials	Denied bail on 23 Jul 2021; sentenced to 19 months imprisonment on 10 Sep 2022; released on 10 Oct 2022
Melody Yeung	Deputy chair, GUHKST	22 Jul 2021		
Sidney Ng	Secretary, GUHKST	22 Jul 2021		
Samuel Chan	Treasurer, GUHKST	22 Jul 2021	Publishing and circulating seditious materials	Denied bail on 30 Aug 2021; sentenced to 19 months imprisonment on 10 Sep 2022; released on 10 Oct 2022
Marco Fong	ExCo member, GUHKST	22 Jul 2021		
Leo Tang	Vice-chair, HKCTU	6 Apr 2022	(Doing acts with seditious intention)	Discharged by police in Dec 2022
Elizabeth Tang	Director, AMRC	9 Mar 2023	(Colluding with a foreign country or with external elements)	On police bail
Marilyn Tang	Executive Director, HKCTU Training Centre	11 May 2023	Perverting the course of justice	Sentenced to six months imprisonment on 21 Dec 2023

* Association of Hong Kong Nursing Staff; ** Allied Health Professionals and Nurses Association

Hong Kong Labour Rights Monitor is a UK-based NGO run by independent trade unionists, labour rights activists, and researchers with a special focus on Hong Kong's labour rights issues.

We speak up for workers in Hong Kong and amplify their voices around the world.

The State of Labour in Hong Kong 2023

Published in April 2024

hklabourrights.org

Email: info@hklabourrights.org

Twitter/Facebook/Instagram: [@HKLabourRights](https://twitter.com/HKLabourRights)

