



**Submission to the  
United Nations Special Rapporteur  
in the field of  
CULTURAL RIGHTS**

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**Regarding the  
United Kingdom of Great Britain and Northern Ireland's  
compliance with the  
RIGHT TO PARTICIPATE IN SPORTING LIFE**

*May 2024*

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# About The Hong Kong Scots

The Hong Kong Scots is a Scotland-based Community-Interest-Company (SC728635). It aims to facilitate better integration of Hongkongers into Scottish society. All our co-founders have extensive experience in politics and the civil society of Hong Kong before residing in Scotland. We incubate initiatives launched by Hongkongers, regardless of their immigration status in the UK, to continue their civic way of life in Scotland. At the same time, we organise events and activities to facilitate dialogue and understanding between Scotsmen and Hongkongers in Scotland.

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- North East Hongkongers Club
- Southampton Hongkongers
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- Mr. Samuel Au
- Hongkongers FC Bristol

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## A. Introduction

1. The UK Government launched the British Nationals (Overseas) visa scheme (BN(O) visa scheme) in January 2021 claiming to respond to the political crisis that the implementation of National Security Law in Hong Kong. It is advertised as a 'humanitarian route for Hong Kong residents', given the deteriorating human rights and risk of arbitrary prosecution after the National Security Law was enacted in mid-2020.
2. Following the launch of the visa scheme, there is an influx of Hongkongers into the UK. National Statistics reported around 140,000 Hongkongers arrived in the UK via the BN(O) visa route.<sup>1</sup> The visa route allows Hongkongers to be in the UK with the BN(O) visa for 5 years, apply for settlement status, followed by citizenship application after a minimum of 1 year.
3. It is notable that the visa comes with a condition of 'No Sportsperson'. This is written as cannot 'work as a professional sportsperson or coach' in the approval electronic communication. This visa condition will be in force in the 5-years visa period until settlement status is granted.
4. It is therefore worthwhile to study the sporting rights of Hongkongers in the UK.
5. **We believe that this restriction is contrary to the International Covenant on Economic, Social and Cultural Rights (ICESCR), Part III Article 6(1) on *gaining his living by work which he freely chooses*. We also find that this restriction may be contrary to the Convention on the Rights of the Child (CRC), Article 2(1) and 2(2), as there are clauses applicable to children under 18 which discriminate against them based on national origin and visa status.** These are to be further discussed in this submission.

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<https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2023/safe-and-legal-humanitarian-routes-to-the-uk>

6. We launched a study in April 2024 to understand how the sporting rights of Hongkongers in the UK is compromised, both for the professional and amateur community. We observed that sporting rights for the professional community is severely compromised, and for the amateur community it is mildly compromised.
  
7. We would like to highlight the below observations from the professional community, which will be discussed in this submission:
  - 1) An identity and self-orientation crisis;
  - 2) Unable to develop a career in sports according to their interest;
  - 3) Unable to accept employment opportunities in their chosen field of sport;
  - 4) Psychological impact due to being unable to pursue a career on their chosen field of sports;
  - 5) Have to deal with discrimination or hate speeches related to visa conditions as a direct effect from the 'No Sportsperson' visa condition.
  
8. We aim to provide data and case studies on how sporting rights are compromised in these communities respectively. While the resolution shall be debated in the General Assembly, **our recommendation is to remove the 'No Sportsperson' visa condition from the BN(O) visa scheme.**

## B. Background of 'No Sportsperson' Restriction

9. The 'No Sportsperson' exists in most of the visa classes in the UK, including skilled worker visa and student visa. The Home Office claims they wished to ensure that the International Sportsperson Visa is the only immigration route for elite sports workers to come to the UK.<sup>2</sup>
10. In January 2019, the Home Office updated the definition of professional sportsperson.<sup>3</sup> We believe the old definition is already a violation of human rights, but it was narrow and clear.<sup>4</sup> The new definition becomes very broad and vague from 2019 and may violate children's rights: -

<b>Definition</b> <sup>5</sup> (non-exhaustive)	<b>Examples</b>
(b) currently receiving payment, including payment in kind, for playing or coaching, and that payment covers all, or the majority of, their costs for travelling to, and living in, the UK, or has received such payment within the previous 4 years  (Similar clause existed pre-2019)	Sports instructors who simply aimed to make a living with teaching sports in the UK, as the salary will be a majority of the costs of living in the UK
(c) currently registered to a professional or semi-professional sports team or has been so registered within the previous 4 years (this includes all academy and development team age groups)  (New in 2019)	Children who demonstrated a talent in a sport and selected to be in the academy age group
(e) has represented their state or regional team within the previous two years, including all youth and development age groups from under 17s upwards	Adolescent who were former Hong Kong representatives of a sport cannot engage in competitive sporting at any

<sup>2</sup> [Stephen Morgan's Question for Home Office: Visa: Sports Competitors](#)

<sup>3</sup> [Immigration Rules archive 10 April 2024](#) pp21

<sup>4</sup> [Immigration Rules archive 5 November 2018](#) pp21

<sup>5</sup> [Sponsorship duties \(accessible\) - GOV.UK](#)

(New in 2019)	level as he is deemed to be professional
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11. While the International Sportsperson Visa exists, it is inappropriate to use this to defend the unfair 'No Sportsperson' condition existed in BN(O) visa, as there is a huge gap between prohibited capacities (e.g. an ordinary sport coach for amateur players) and those who are eligible for this visa. These will be further discussed in this submission.
  
12. Therefore, we found this restriction unnecessarily broad and extremely protective to the local sport industry. At the same time, the policy is written in a very vague manner, which a local solicitor firm raised concerns and worries in 2019 <sup>6</sup>, but this is not actively being looked into.

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<sup>6</sup> [Carter Thomas: Home Office new definition of 'professional sportsperson'](#)

### C. Affected Population across Hongkongers in the UK

13. Hongkongers in Britain (HKB), a territory-wide association for Hongkongers, launched a study in December 2023. The study, which is yet to be published by the date of submission, is primarily for all Hongkongers in the UK regarding employment. 3.86% of them are directly affected by the 'No Sportsperson' visa condition in terms of employment, and their families are also affected. We take this to estimate the number of affected population.
  
14. We further called for Hongkongers in the UK who participated in sports, either at amateur or professional level, to participate in our study. 16.2% of them are directly affected by the 'No Sportsperson' visa condition: they cannot continue to pursue their sporting career with their previous experiences in Hong Kong. Their experiences in Hong Kong were (a person could have multiple experiences):
  - 1) 76.7% sport coaches;
  - 2) 30% amateur athletes but at the top level of Hong Kong or were in the Hong Kong team. Note that full time athlete is not a popular career choice in Hong Kong due to a utilitarian culture there;
  - 3) 16.7% agencies in sports employment;
  - 4) 13.3% Referee or examiners;
  - 5) 10% Full-time professional athlete.
  
15. With this data, we estimate 5,400 Hongkongers in the UK who cannot work in the sports industry.<sup>7</sup> **The total affected population could be up to 15,000 by taking their families into account.**<sup>8</sup> 2,200 of them cannot compete due to the 'No Sportsperson' visa condition.<sup>9</sup> The sporting rights of these people are severely compromised.

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<sup>7</sup> Calculated based on 3.86% (From HKB study) of 140,000 BNO Visa Immigration number (UK National Statistics, see footnote 1).

<sup>8</sup> Based on the average household size of Hong Kong in 2023. It is reasonable to assume the average household size of Hongkongers does not change in the UK within 3 years from the start of the visa scheme. It was 2.7 according to the Census and Statistics Department of Hong Kong: [Table 130-06806 : Average household size and median monthly household income of households by District Council district](#)

<sup>9</sup> Based on athletes of 30% elite amateur and 10% full-time professional as in paragraph 14. 40% of 5,400 is rounded up to 2,200.



## **D. Gaps between Prohibited Activities in BN(O) No Sportsperson Visa Condition and International Sportsperson Visa**

16. To be eligible for the International Sportsperson Visa, the person must be sponsored by an employer and the governing body of the chosen sport the UK.<sup>10, 11</sup> With this hurdle it is very clear that only a small population may be eligible. We asked the affected group in our study to discuss why the International Sportsperson visa was not an option. The primary reasons are: -

- 1) They coach at amateur level and cannot be sponsored by a governing body in the UK;
- 2) The nature of their sport coaching is self-employed, and is impossible to look for employment sponsorship;
- 3) They haven't reached a skill level where a UK governing body will be willing to sponsor;
- 4) They do not have a connection with the UK governing body to sponsor for their visa;
- 5) The chosen field of sport does not have a governing body in the UK or being active.

17. It is therefore very clear that the International Sportsperson Visa is NOT a viable alternative for most of the affected sportspersons.

18. The affected group in our study further responded on why International Sportsperson Visa is not preferred: -

- 1) International Sportsperson Visa will be voided with an employment termination, but not with the BN(O) Visa;
- 2) They are permitted to start a business with a BN(O) Visa, but not with an International Sportsperson Visa.

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<sup>10</sup> [International Sportsperson visa: Overview - GOV.UK](#)

<sup>11</sup> [Immigration Rules Appendix Sports Governing Bodies - Guidance - GOV.UK](#). While the definition only mentions governing bodies, as per the designated governing body in this document, most (if not all) of them are governing bodies in the UK.

## E. Impact on Lost Right in Employment in Sporting

### Industry

19. It is evident that Hongkongers in the UK are already facing difficulties in employment and acceptance of their qualifications.<sup>12</sup> The affected group further experienced the below regarding to employment in the sporting industry: -

- 1) Unable to apply for a job;
- 2) Unable to accept a job offer;
- 3) Was rejected during the right to work vetting process, even when the interview process for a role was successful.

20. 46.7% directly affected respondents reported an income loss with the restriction. We further asked how these affected sportspeople make a living; most of them are pursuing careers with no or only vocational skill sets required, often unrelated to the sporting industry. These include cashiers, interior decorators, train station operators, security, drivers and so on. They gave up most of their skills and passion to make a living, and their income is not proportionate to the skills they possess.

21. In our study, some respondents also admitted that they are working in the sports industry by taking a risk in breaching the visa condition. This is very worrying as they are just attempting to make a living with their skills and interest which is very legitimate anywhere else in the world.

**22. It is very clear that these people are unable to choose the work they are interested in and competent. This is a violation to ICESCR, Part III Article 6(1) on *gaining his living by work which he freely chooses*. The UK Government allows the Home Office to put this restriction shows that they did not *take appropriate steps to safeguard this right*.**

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<sup>12</sup> Benson, M., Sigona, N., & Zambelli, E. (2024). *Humanitarian Visas in a Hostile Environment: Historical legacies, geopolitical ties and everyday experiences*. Zenodo. <https://doi.org/10.5281/zenodo.10571433>

## F. Case Study: Employment

23. We interviewed Regina as a representative case study on employment. Regina is an alias name.
24. Regina is a 28-year-old professional dancer and dance teacher. She was a 3-time Hong Kong champion. She has 10 years of experience as an assistant teacher in Hong Kong. She planned to pursue a dance teacher career in the UK, but she wasn't able to do so due to the 'No Sports person' visa condition. She is now spending time on further qualifications in dancing.
25. Here are some facts about Regina's experience.
  - 1) Teaching experience is an integral part of the qualification that she is pursuing, but she is prohibited from performing any teaching activities in the UK. Her teacher offered to arrange unpaid teaching experience for her, but unpaid professional activities are also prohibited.<sup>13</sup> Home Office clauses only allow exceptions if the qualification is offered by a Higher Education Institution<sup>14</sup>, but she is pursuing a qualification offered by an examination board.
  - 2) Her examination performance in demonstrating teaching ability was adversely affected to a great extent, due to lack of recent teaching experience after attaining the previous qualification.
  - 3) During her practice in a dance studio, a dance studio manager saw her performance and offered her a job of £5,000 (US\$6,250) per month. She is unable to accept the job. She is now working as a call centre operator with a salary of £1,500 (US\$1,875) per month.
  - 4) She was suffering from depression and anxiety for years, but was well controlled by having a career as a dance teacher in Hong Kong. Her symptoms are more severe in the UK and she assessed that it is highly related to being unable to teach. She cannot find energy to continue her studies. She is now with National Health Services (NHS) for counselling and on medication for depression, which she never had to rely on before.

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<sup>13</sup> [Sponsorship duties \(accessible\) - GOV.UK](#) Clause 6.14

<sup>14</sup> [Sponsorship duties \(accessible\) - GOV.UK](#) Clause 6.18

26. We conclude the impact on the visa condition in this case include:

- 1) Loss in professional development opportunities, even it is an integral part of her studies;
- 2) Loss in income and employment opportunities;
- 3) Psychological impact coming from activities restriction on her passion, and relevant loss of opportunities, even the income that she is going to earn is modest.

## **G. Impact on Compromised Right to Compete**

27. We requested the group of athletes to discuss the primary impact of having compromised right to compete. We discovered the primary impacts are:

- 1) Early retirement as professional athletes;
- 2) Missed the age with prime physical condition to compete, and could only compete at disadvantaged age when settlement is granted in the future;
- 3) Cannot aim for higher achievements in their chosen field of sports.

28. While the affected population is smaller, the impact to these athletes is huge. 56.7% of the respondents have an age-sensitive sporting career. Out of these respondents: -

- 1) 35.3% of them is consider giving up the sport but still practising;
- 2) 17.6% of them are already not actively practising the sport.

**29. In particular, the compromised right to compete affects children as it covers all age groups in one of the definitions, which is a discrimination based on nation origin (The BN(O) visa is for Hongkongers) and visa status. We suggest this is contrary to the CRC, Article 2(1) where rights of children without discrimination within the UK jurisdiction are not respected and ensured; and Article 2(2) that no appropriate measures are taken.**

## H. Case Study: Compromised Right to Compete

30. We interviewed Mary's parents. Mary is an alias name.
31. Mary is a 12-year-old athlete of an uncommon, non-Olympic sport who reached a world-class skill level.<sup>15</sup> However, she was only eligible for the open amateur category but not in the age-grouped British Championships category because of the visa condition. Despite the harsh conditions, she achieved overall first in the race in terms of gender.
32. Mary's experience was: -
- 1) She reached an international skill level but was not allowed to compete at British Championships level with the visa condition; she has to compete with all age groups with competitors physically more developed than her, as the amateur race is not age-grouped.
  - 2) British Championships medallists were then invited to join the national development team, but she was not invited. Should she be invited, she would not be able to join due to the 'No Sportsperson' visa condition.
  - 3) Another athlete was named British Champion in her age group despite her result is inferior to Mary. After the medal presentation, the father of that athlete got the gold medal of the British Championship and asked Mary, 'Are you jealous?'.
  - 4) She was humiliated by an adult and she was not aware of any channel to make a complaint. While the parent did not observe psychological impact on this, if this happened on another child, the consequences could be severe, including suicidal actions.
33. We observe the impact of 'No Sportsperson' visa condition include: -
- 1) Loss of opportunities to receive further quality training even the competency is attained;

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<sup>15</sup> The sport is not disclosed to protect the identity of the athlete. They have concerns that they don't want to be known publicly that they have left Hong Kong, as leaving Hong Kong is politically sensitive.

- 2) Degraded achievement title;
- 3) Has to deal with discriminatory scenarios, which would not have existed if the 'No Sportsperson' visa condition was not imposed on her, and she does not know she could make a complaint;
- 4) Potential psychological and wellbeing impact on one's identity, potentially up to suicidal actions.

## I. Psychological Impact on Compromised Sporting Rights

34. Our organisation investigated the psychological condition of the population of sportspersons with compromised sporting rights. Within these 30 respondents:

Symptom	Respondents with symptom episodes
Anxiety	73.3%
Depression	63.3%
Obsessive-compulsive	40%
Attention-deficit	36.7%
Mania	26.6%
Agoraphobia	20%

35. In particular, the high ratio of anxiety and depression symptoms reported are worrying.

## J. Case Study: Psychological Impact

36. We are presenting a case of Emerson, which is taken from another study.<sup>16</sup>
37. Emerson is a 39-year-old elite athlete and coach. He is a Hong Kong record holder of the sport that he plays, and has just broken the Hong Kong record a few months before he came to the UK.
38. Here are some facts about Emerson: -
  - 1) He established a sports team in Hong Kong, and leaving Hong Kong means he had to give up all the connections he had in the sporting industry.
  - 2) He evaluated himself as 'at the peak of his career' at the moment he decided to leave Hong Kong, as he just broke a Hong Kong record, but he had no choice in view of the political crisis.
  - 3) He has struggles on his identity and self-orientation after coming to the UK with a total loss in his established career and the 'No Sportsperson' visa restriction. He suffered from depression after landing in the UK and he has suicidal thoughts.
  - 4) He relies on the services from the NHS to recover from the emotional distress, and has to discover other social circles to be recovered.
39. It is therefore very clear that a considerable population of sportspeople are suffering from mild to severe psychological issues with such visa restriction.

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<sup>16</sup> Au, K. C., & Holland-Smith, D. (2024). The transforming journey of Hong Kong Elites athletes and coaches migrating to the United Kingdom via the British National (Overseas) visa scheme. *Sport in Society*, 27(4), 613–638.  
<https://doi.org/10.1080/17430437.2023.2300421>

## **K. General Discrimination Observed in Overall Hong Kong Community in UK**

40. In our study, 19.2% of respondents reported being treated unfairly because of race and nationality. For instance, some participants in academic sports competitions received hostile comments about the physical characteristics of East Asians. Furthermore, 19.2% of respondents were excluded or not understood due to language barriers. However, most of the Hongkongers participating in sports in the UK do not feel discriminated against by their race, skin colour or nationality.
41. Some respondents experienced serious racial discrimination in a community competitive setting. 10% of respondents claimed that they had been unfairly scored in inter-school or community matches, and did not receive awards due to their BN(O) nationality.
42. We noted that institutional discrimination is common in the professional community, where players are humiliated by other teams with the "No sportsperson" visa condition. However, we received positive feedback in the amateur community, where Hongkongers are generally being welcomed and accepted. Our study shows that the majority of individuals were treated friendly in an amateur setting.
43. We therefore conclude that the sporting rights in the amateur community are mildly compromised, with lack of support to respond to hate speeches.



## L. Conclusion

44. It is very clear that the sporting rights of Hongkongers in the UK are restricted by a UK policy, which we evaluate as unnecessary and overly broad. We believe it is contrary to ICESCR Part III Article 6(1). It may also be contrary to the CRC, Article 2(1) and 2(2), when the restriction applies on children.
45. The aforementioned study by Hongkongers in Britain found that 75.4% of Hongkongers agreed that the UK Government should remove the 'No Sportsperson' visa restriction. 78.9% of them agreed that removing such restriction will allow Hongkongers to access more employment opportunities.
- 46. We are presenting the facts and findings from our study, for further consideration and resolution from United Nations Human Rights. We, the Hong Kong Scots, recommend the resolution as suggesting the UK Government to remove 'No Sportsperson' visa restriction from the BN(O) visa.**