
BRIEFING: CALLS FOR A UN SPECIAL ENVOY AND/OR SPECIAL RAPPORTEUR ON HONG KONG

Executive Summary

- It is clear that momentum is building behind the idea of a UN mechanism to monitor the deteriorating grave situation in Hong Kong, which Hong Kong Watch first proposed in May 2020.
- Hong Kong Watch encourages Parliamentarians to urge their governments to publicly support the idea of a UN Rapporteur and/or Special Envoy, to raise this with the UN Secretary-General directly, and with member states who are on the UN Human Rights Council.
- Hong Kong Watch recommends to policy-makers in governments to support this idea of a UN Special Envoy or Special Rapporteur, both by public statements, making representations to UN Secretary-General and by encouraging UN Human Rights Council members to take this forward.

Context

Following the announcement by the Chinese Government of its plans to impose a national security law on Hong Kong, and with all the associated serious human rights concerns that this entails, Hong Kong Watch has been leading international calls for the creation of an international contact group to coordinate a global response to the impending crisis in Hong Kong, and the establishment of a United Nations Special Envoy and a Special Rapporteur for human rights in Hong Kong.

Since the announcement by the Chinese government, momentum has grown behind calls for international action.

A statement initiated by the last Governor of Hong Kong Chris Patten and the former UK Foreign Secretary Sir Malcolm Rifkind has been signed by over 900 Parliamentarians from more than 40 countries¹.

At the end of May 2020, [seven former British Foreign Secretaries](#) wrote to the Prime Minister proposing the establishment of an international contact group. These included

¹ <https://www.hongkongwatch.org/all-posts/2020/5/23/patten-led-group-of-198-parliamentarians-from-23-countries-decry-flagrant-breach-of-the-sino-british-joint-declaration>

Lord Owen, Sir Malcolm Rifkind, Jack Straw, Margaret Beckett, David Miliband, Lord Hague and Jeremy Hunt MP.

Momentum behind proposals for a UN Mechanism

Over just a few weeks momentum behind the idea of a UN mechanism on Hong Kong has increased significantly. The following provides a compendium of initiatives taken in support of this proposal:

On 29 May the last Governor of Hong Kong Lord Patten of Barnes, the Director of the International Bar Association's Human Rights Institute Baroness Helena Kennedy QC, Sir Geoffrey Nice QC (chief prosecutor in the trial of Slobodan Milosevic) and Lord Alton of Liverpool, Vice-Chair of the APPG on Hong Kong led calls for the creation of a UN Special Envoy and/or Special Rapporteur for Hong Kong.

Lord Patten said: *"The establishment of an international contact group to coordinate a global response would be a positive way forward. Moreover, the creation of a UN special envoy for Hong Kong would contribute both to monitoring human rights and encouraging dialogue and reconciliation. Many UN member states would see it as a constructive proposal worthy of support,"* he added.²

Baroness Helena Kennedy QC said: *"It is vitally important that the United Nations acts with urgency. A UN Special Envoy could prevent this crisis escalating beyond control. We are reaching a point from which there might be no return and the only body with the authority to act as mediator is the UN."*³

On 2 June, the Chair of the UK House of Commons Foreign Affairs Committee, Tom Tugendhat MP, together with his counterparts from the Australian, New Zealand and Canadian Parliaments, wrote to the Prime Ministers of their respective countries and to the UN Secretary-General Antonio Guterres, calling for the creation of a UN Special Envoy or Special Rapporteur.⁴

² <https://www.telegraph.co.uk/news/2020/05/29/exclusive-former-governor-chris-patten-leads-charge-set-un-special/> & <https://www.hongkongwatch.org/all-posts/2020/5/29/hong-kong-watch-leads-calls-for-establishment-of-a-un-special-envoy-for-hong-kong>

³ <https://news.rthk.hk/rthk/en/component/k2/1529194-20200529.htm>

⁴ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/foreign-affairs-committee/news-parliament-2017/chair-writes-to-un-chairs-comments-19-21/> and <https://twitter.com/TomTugendhat/status/1267925270406868998?s=20> & <https://www.hongkongwatch.org/all-posts/2020/6/22/chairs-of-foreign-affairs-committees-from-4-countries-calls-for-a-un-special-envoy-and-un-special-rapporteur-on-hong-kong>

On 16 June the former UN Special Rapporteur on the situation of human rights in Myanmar and former Chair of the UN Committee on the Rights of the Child Yanghee Lee published an op-ed calling for the creation of a UN Special Rapporteur or envoy on Hong Kong.⁵

The European Parliament passed a resolution on 19 June which included called for a UN Special Envoy or Special Rapporteur.⁶

On 19 June UN High Commissioner for Human Rights Michelle Bachelet expressed her concerns about the national security law.⁷

On 23 June, former British Foreign Secretary Lord Owen published an op-ed in *Foreign Policy* in which, among other recommendations, he called for the establishment of a UN Special Envoy and/ or Special Rapporteur.⁸

On 24 June a letter to the Chinese government, dated 19 June, was released by seven UN Special Rapporteurs whose mandates include the promotion and protection of human rights and fundamental freedoms while countering terrorism, extrajudicial, summary or arbitrary executions, freedom of opinion and expression, freedom of peaceful assembly and association, human rights defenders and the Vice-Chair of the Working Group on Arbitrary Detention, who "express serious concern" that the new National Security Law fails to "comply with international human rights law, in particular the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights."⁹

On 25 June the former UN High Commissioner for Human Rights Zeid Raad al Hussein and eight former **UN Special Rapporteurs released a statement calling for the creation of a UN Special Envoy and Special Rapporteur. The signatories included the former UN Special Rapporteurs on human rights and counter-terrorism (Ben Emmerson QC), torture (Juan Mendez), freedom of religion or belief (Heiner Bielefeldt), extreme poverty and human rights (Philip Alston) and violence and discrimination based on sexual orientation and gender identity (Vitit Muntarbhorn), as well as by Marzuki Darusman, former UN Special Rapporteur on North Korea and former Chair of the UN Independent International Fact-finding Mission on Myanmar, Miklos Harazti, former UN Special Rapporteur on Belarus and former OSCE representative on freedom of the media, and Yanghee Lee, former UN Special**

⁵ <https://www.project-syndicate.org/commentary/hong-kong-security-law-un-special-envoy-by-yanghee-lee-2020-06>

⁶ <https://www.europarl.europa.eu/news/en/press-room/20200615IPR81235/meps-call-on-eu-to-consider-lawsuit-against-china-over-hong-kong> & <https://www.hongkongwatch.org/all-posts/2020/6/20/eu-parliament-call-for-international-lifeboat-and-magnitsky-sanctions-in-joint-resolution-on-hong-kong>

⁷ <https://news.un.org/en/story/2020/06/1066682>

⁸ <https://foreignpolicy.com/2020/06/23/hong-kong-britain-uk-china-protect/>

⁹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25354>

Rapporteur on Myanmar and former Chair of the UN Committee on the Rights of the Child.¹⁰

They express "grave concern about the immediate threats to human rights" from the imminent implementation of the new national security law, which they describe as "a flagrant breach" of the UN-registered Sino-British Joint Declaration. They argue that "it is imperative" that the UN and member states should act urgently to establish a mechanism for monitoring and reporting on the human rights situation in Hong Kong.¹¹

On 26 June, 51 UN Special Rapporteurs signed a statement calling on the UN "to act with a sense of urgency to take all appropriate measures to monitor Chinese human rights practices" and recommended "the establishment of an impartial and independent UN mechanism", such as a UN Special Rapporteur, a Panel of Experts or a Special Envoy appointed by the Secretary-General. Signatories included the Special Rapporteurs on **extrajudicial, summary or arbitrary executions** (*Agnes Callamard*), **freedom of expression** (*David Kaye*), **human rights defenders** (*Mary Lawlor*), **the promotion and protection of human rights and fundamental freedoms while countering terrorism** (*Fionnuala D. Ni Aolain*), **freedom of religion or belief** (*Ahmed Shaheed*), **peaceful assembly and association** (*Clement Nyaletossi Voule*), **independence of judges and lawyers** (*Diego Garcia-Sayan*), **torture** (*Nils Melzer*) and members of several UN working groups, called for a special session of the UN Human Rights Council to evaluate human rights in China including Hong Kong.¹²

Summary

There are two distinct mechanisms being recommended – a UN Special Envoy appointed by the Secretary-General and a UN Special Rapporteur on the situation of human rights in Hong Kong created by the UN Human Rights Council.


There is nothing preventing the establishment of both mechanisms simultaneously, and indeed there are precedents for the UN applying both mechanisms to the same situation. For example, Myanmar has had, for many years, both a UN Special Rapporteur on human rights in Myanmar and a UN Special Envoy.

It is important to note that neither of these roles have to be approved or go through the Security Council (the only UN body where China has an official veto). Of course, China can and undoubtedly will seek to use all its influence to prevent either of these happening, but it cannot actually veto it if there is enough support from other member states.

¹⁰ <https://www.nytimes.com/aponline/2020/06/25/world/europe/ap-eu-united-nations-hong-kong.html>

¹¹ https://www.washingtonpost.com/world/europe/ex-un-human-rights-chief-calls-for-hong-kong-special-envoy/2020/06/25/1f106e2e-b70e-11ea-9a1d-d3db1cbe07ce_story.html

¹² <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006&LangID=E>



It would be important to ensure that human rights concerns are featured prominently in the mandate. There can be a tendency for the UN Special Envoy to be typically a more diplomatic role focused on negotiation, dialogue, reconciliation, and while the envoy can and should have human rights very much in mind, there is a risk – if the mandate is not made clear or if the occupant of the position or the Secretary-General himself chooses – that human rights could be neglected or given lower-key attention, in pursuit of “diplomacy”. The mandate should be carefully crafted to ensure this does not occur. The UN Special Rapporteur, reporting to the Human Rights Council, has an explicit mandate to report on the human rights situation and is therefore likely to be more robust on human rights.

Recommendations

It is clear that momentum is building behind the idea of a UN mechanism to monitor the deteriorating grave situation in Hong Kong, which Hong Kong Watch first proposed in May 2020.

Hong Kong Watch encourages Parliamentarians to urge their governments to publicly support the idea of a UN Rapporteur and/or Special Envoy, to raise this with the UN Secretary-General directly, and with member states who are on the UN Human Rights Council.

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