

HUMAN RIGHTS SITUATION IN HONG KONG:

HONG KONG WATCH BRIEFING ON EVENTS: JANUARY 2021

EXECUTIVE SUMMARY

This briefing describes developments in Hong Kong in the last month focusing on the rapid deterioration of human rights in the city following the introduction of the National Security Law in July.

THE ONGOING CRACKDOWN OF THE PRO-DEMOCRACY MOVEMENT IN HONG KONG

- Since the start of the New Year, we have witnessed an ongoing crackdown on the pro-democracy movement in Hong Kong.
- This included the arrest of 55 politicians accused of organising and participating in last year's democratic primaries, the arrest of 11 people accused of helping 12 Hong Kong young people escape, and the arrest of the prominent pro-democracy activist Grandma Wong.

INCREASING SURVEILLANCE AND MOVES TO INTRODUCE INTERNET CONTROLS

- The last month has seen the Hong Kong and Chinese Government take steps towards increasing surveillance in the city and censoring the internet. There are growing fears that the Great Firewall in mainland China may be extended to Hong Kong.
- Notable events include the banning of HKChronicles, a website detailing police brutality against the anti-extradition protests in 2019, and the Hong Kong Domain Name Registration Company banning the registering of new domain names that that could "incite illegal acts".
- Hong Kong's Security Minister John Lee confirmed that the police's surveillance of communications would be covered under the National Security Law and the Washington Post reported that the Hong Kong Police are now regularly sending devices seized by pro-democracy activists arrested to the mainland, where authorities with sophisticated data-extraction technology are using the information from the devices to assist in investigations.

BEIJING NO LONGER RECOGNISES BNO AND CANADA RAISES CONCERN AS HONG KONG GOVERNMENT MULLS BANNING DUAL-NATIONALITY

- Following the UK's BNO visa scheme opening on 31 January 2021, Beijing announced that it will no longer recognise British National Overseas passport as a travel and ID document and is considering take further action.

- The Canadian Government is increasingly concerned over the status of Hong Kongers with dual Canadian nationality, following an announcement by the Hong Kong Government that prisoners must declare the nationality they wish to maintain.

CAPITAL OUTFLOWS FROM HONG KONG

- This month US hedge fund Elliot Management announced that it is closing its Hong Kong office, marking one of the first large financial institutions to shutter operations in the territory since the introduction of the National Security Law.
- A report published by the Bank of America this month found that Hong Kong residents leaving the city could trigger capital outflows of HK\$280 billion (\$36 billion) this year.
- The Financial Times reported this month that asset fund managers and bankers leaving Hong Kong for alternative financial centres are facing unusual questioning from government agencies on their decision to leave the city.

RESPONSES TO THE LATEST DEVELOPMENTS

- The US State Department announced additional sanctions on six Hong Kong and Chinese officials responsible for “developing, adopting, or implementing the National Security Law” the draconian National Security Law.
- The European Parliament overwhelmingly passed a joint-resolution on Hong Kong, which called for Magnitsky sanctions, lifeboat, extradition, a UN special envoy and stronger human rights provisions in the EU-China Investment Partnership.
- Following the freezing of pro-democracy activists and church pastors bank accounts, HSBC was called to testify before the UK Parliament’s Foreign Affairs Committee.

THE ONGOING CRACKDOWN OF THE PRO-DEMOCRACY MOVEMENT IN HONG KONG

Arrest of pro-democracy candidates and organisers of last year's primaries

On 6-7 January 2021, 55 people were arrested in Hong Kong under the National Security Law. Those arrested were the the organisers and candidates in last July's democratic primaries where over 600,000 Hong Kongers voted for pro-democracy candidates for the upcoming Legislative Council elections.

On 6 January, 1000 national security officers and police officers arrested 53 people and searched 77 places, including homes, offices, and 4 media companies which were serviced with orders to hand over materials related to the case. Under direction of the Hong Kong Police, banks also froze HKD \$1.6 million. 2 further individuals were arrested on 7 January.

Six of the organisers of last year's primary were charged with "organising subversion" and forty-seven candidates were charged with "participating in subversion" under the National Security Law. Those arrested include the pro-democracy academic Benny Tai, an American lawyer John Clancey, and several pro-democracy activists and former lawmakers.¹

John Lee, Hong Kong's Security Minister, in a news conference said that those arrested were suspected of trying to paralyze the government, via their plans to gain a majority of the seats in the legislature to create a situation in which the chief executive had to resign and the government would stop functioning.²

Responses to the mass arrests

Responding to the arrests, the Foreign Ministers of UK, USA, Canada, and Australia in a joint-statement said:

"We, the Foreign Ministers of Australia, Canada and the United Kingdom, and the United States Secretary of State, underscore our serious concern at the mass arrests of 55 politicians and activists in Hong Kong for subversion under the National Security Law.

The National Security Law is a clear breach of the Sino-British Joint Declaration and undermines the 'One Country, Two Systems' framework. It has curtailed the rights and freedoms of the people of

¹ <https://www.theguardian.com/world/2021/jan/06/american-lawyer-arrested-by-hong-kong-police-in-national-security-crackdown>

² <https://www.hongkongwatch.org/all-posts/2021/1/6/chris-patten-mass-arrests-of-hong-kong-democrats-shows-why-eu-parliament-must-reject-china-investment-agreement>

Hong Kong. It is clear that the National Security Law is being used to eliminate dissent and opposing political views.

We call on the Hong Kong and Chinese central authorities to respect the legally guaranteed rights and freedoms of the people of Hong Kong without fear of arrest and detention. It is crucial that the postponed Legislative Council elections in September proceed in a fair way that includes candidates representing a range of political opinions.”³

Josep Borrell Fontelles, the High Representative/Vice-President on behalf of the EU said:

“The authorities in Hong Kong arrested over 50 people on 6 January 2021 on charges pursuant to the National Security Law (NSL). The charges in question relate to the holding in July 2020 of pro-democracy primary elections aimed at identifying candidates for the next Legislative Council elections. Those arrested include former opposition lawmakers and civil society activists.

These arrests penalise political activity that should be entirely legitimate in any political system that respects basic democratic principles. They are the latest indication that the National Security Law is being used by the Hong Kong and mainland authorities to stifle political pluralism in Hong Kong, and the exercise of human rights and political freedoms that are protected under Hong Kong law and international law.

The EU calls for the immediate release of those arrested. The EU urges the authorities to respect Hong Kong’s rule of law, human rights, democratic principles and high degree of autonomy under the ‘One Country, Two Systems’ principle, as enshrined in the Hong Kong Basic Law and in line with domestic and international obligations.”⁴

Lord Patten of Barnes, the last British Governor of Hong Kong said:

“Taking advantage of the political and pandemic distractions around the world, the Chinese Communist Party has further turned the screw in Hong Kong. It is now clearly to be regarded as illegal to support democracy. Apparently, Hong Kong citizens are to be forced to love Beijing’s Communists, or else. Liberal democracies around the world must continue to speak out against this brutal destruction of a free society as well as about the ethnic genocide in Xinjiang.”

³ <https://www.gov.uk/government/news/foreign-ministers-joint-statement-on-arrests-in-hong-kong>

⁴ <https://www.consilium.europa.eu/en/press/press-releases/2021/01/07/hong-kong-declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-mass-arrest-of-people-involved-in-the-july-2020-pro-democracy-primary-elections/>

Hong Kong Police arrest individuals accused of being “accomplices” to the 12 HK Youths

On 14 January 2021, 11 individuals were arrested in Hong Kong under the National Security Law for allegedly helping the of 12 Hong Kong youths currently detained in Shenzhen to abscond.

The group of individuals, facing charges for “assisting criminals”, include 8 males and 3 females between the ages of 18-72. Among them was the lawyer and current District Councilor Wong Kwok-tung, independent musician Fok Long-chai, and a Ukrainian national.

A source within the National Security Department said that the 11 individuals were accused of sponsoring the fugitives’ attempt to abscond, with the level of funds offered by each of them ranging from a few thousand Hong Kong dollars to tens of thousands. They also were accused of providing “assistance such as introducing middle men to the fugitives, arranging shoreline pickups and providing hiding locations.”

Commenting on the arrests, Hong Kong Watch’s Chief Executive, Benedict Rogers said:

“This latest crackdown makes a mockery of previous claims that the draconian National Security Law would be used sparingly and be applied only to cases with a direct and imminent threat to security. The case of the 12 Hong Kong youths who languish in a jail in Shenzhen has never had anything to do with national security.

There is also reason to believe that the evidence against the 11 individuals arrested today has been extracted from the 12 Hong Kong youths detained in Shenzhen through mistreatment and even torture.”⁵

Grandma Wong is arrested

The prominent pro-democracy activist, Grandma Wong, was arrested by the Hong Kong Police on 22 January 2021 on suspicion of “obstructing police officers in the executive of their duties” after she was found holding up a sign at a pedestrian crossing in Tseung Kwan O. She is currently being detained in police custody.

Grandma Wong previously disappeared in August 2019, after she was detained by Chinese authorities at the border with Shenzhen. Reappearing in October 2020, she confirmed in a press

⁵ <https://www.hongkongwatch.org/all-posts/2021/1/14/this-latest-crackdown-makes-a-mockery-of-previous-claims-that-the-national-security-law-would-be-used-sparingly-and-be-applied-only-to-cases-with-a-direct-and-imminent-threat-to-security>

conference that she had been held in administrative detention for 45 days and was unable to return to Hong Kong after her bail finished.⁶

Hong Kong Police raid HKCU student halls and arrest four students

On 25 January 2021, the Hong Kong Police raided the Chinese University of Hong Kong student halls and arrested three students for their involvement in an incident on the campus earlier in the month when masked individuals pulled down a security fence, threw eggs, and white powder in response to new campus security measures.

The three students arrested were aged between 19 and 22 and included former student union president Owen Au Cheuk-hei. All three were held on suspicion of unlawful assembly and assault with intent, according to a police statement.⁷

The unconditional release of four student activists

On 18 January 2021, the Hong Kong Police unconditionally released three student activists who were previously arrested under the National Security Law in late July and again in November alongside their leader Tony Chung. All three also had their passports returned.⁸

INCREASING SURVEILLANCE AND MOVES TO INTRODUCE INTERNET CONTROLS

The last month has seen the Hong Kong and Chinese Government take steps towards censoring the internet and increase surveillance.

On 14 January 2021, the Hong Kong Broadband Network announced that it had blocked the HKChronicles website, which publishes material related to incidences of police brutality in the 2019 anti-extradition protests, in compliance with the National Security Law. This marks the first-time in a local website has been censored under the draconian law.⁹

⁶ <https://www.hongkongwatch.org/all-posts/2021/1/22/grandma-wongs-arrest-is-the-latest-assault-on-democracy-and-free-expression-in-hong-kong>

⁷ <https://hongkongfp.com/2021/01/26/hong-kong-police-arrest-former-student-union-president-and-2-others-over-cuhk-campus-security-protest/>

⁸ <https://www.facebook.com/1446403762243685/posts/2215-18-jan-4-studentlocalism-members-get-passports-back-from-police-after-high-/2855469908003723/>

⁹ <https://www.reuters.com/article/uk-hongkong-security-censorship/hong-kong-telecoms-provider-blocks-website-for-first-time-citing-security-law-idUKKBN29J0NK>

Following the ban on HKChronicles, the Hong Kong Domain Name Registration Company on the same day released guidance that it will reject new registered domain names in Hong Kong that could “incite illegal acts”.¹⁰

In the same week, Hong Kong’s Security Minister John Lee confirmed that the police’s surveillance of communications would be covered under the National Security Law, with operations no longer being subjected to rules under the existing Interception of Communications and Surveillance Ordinance which require the police to obtain prior approval.¹¹

The Washington Post has reported that the Hong Kong Police Force is now regularly sending devices seized by pro-democracy activists arrested to the mainland, where authorities with sophisticated data-extraction technology are using the information from the devices to assist in investigations.¹²

On 22 January 2021, pro-Beijing lawmakers in Hong Kong’s Legislative Council called for the introduction of surveillance cameras in school classrooms. Liberal Party chairman Tommy Cheung Yuyan, an adviser to the Hong Kong Government, suggested placing CCTV cameras in classrooms would reveal if teachers had made “subversive remarks”.¹³

The Hong Kong Government announced on 29 January 2021 a consultation on new laws which would require Hong Kongers to register their mobile sim-cards using their real identity. The proposal includes requiring individuals to provide their real names, date of birth as well as ID number for verification.¹⁴

Under the new proposal, businesses would also be required to provide company information to register, while individual users are allowed to have only three pay-to-go cards from one telecom provider. According to the consultation, individuals who are caught providing false information could face lengthy prison time of up to 14 years.

¹⁰ <https://www.reuters.com/article/us-hong-kong-security-censorship/hong-kong-censorship-debate-grows-as-internet-firm-says-can-block-illegal-acts-idUSKBN29K0ZM>

¹¹ <https://www.reuters.com/article/us-hongkong-security-communications/hong-kong-security-chief-says-police-surveillance-under-security-law-is-not-subject-to-existing-rules-idUSKBN29K0UF>

¹² https://www.washingtonpost.com/world/asia_pacific/hong-kong-national-security-law-internet/2021/01/12/01738064-53b6-11eb-acc5-92d2819a1ccb_story.html

¹³ <https://www.scmp.com/news/hong-kong/politics/article/3118789/hong-kongs-pro-establishment-lawmakers-make-case>

¹⁴ <https://www.aljazeera.com/news/2021/1/29/hong-kong-tightens-leash-on-mobile-phone-use-registration>

BEIJING NO LONGER RECOGNISES BNO AND CANADA RAISES CONCERN AS HONG KONG GOVERNMENT MULLS BANNING DUAL-NATIONALITY

Beijing no longer recognises BNO passports

Following the UK's BNO visa scheme opening on 31 January 2021, Beijing announced that it will no longer recognise British National Overseas passport as a travel and ID document and is considering taking further action.¹⁵

It is unclear how many Hong Kongers will be impacted by the announcement. Hong Kong citizens and foreign residents are not required to show a passport when they depart Hong Kong international airport, instead using a smartcard ID.

Tang Fei, a member of the Chinese Association of Hong Kong and Macao Studies, has said that the invalidation of BNO means that BNO holders cannot book flights or go through exit formalities using their BNO passports in Hong Kong.¹⁶

The announcement is likely to impact on dual-nationals in the city as well, including the large number of Hong Kongers with Canadian citizenship.¹⁷

A source told the South China Morning Post that Beijing would include further potential curbs to BNO and Hong Kong's electoral shake-up as one package to be scrutinised at the NPC's plenary session in March, as it could involve amending the Basic Law, the city's mini-constitution.¹⁸ Under the Basic Law, electoral reform packages require a two-thirds majority in the Legislative Council, or the support of 47 lawmakers, to be approved. But after the purging of pro-democracy voices last year, there are only 43 lawmakers left.

Hong Kong Government floats reform to dual-nationality

The Canadian Government is increasingly concerned over the status of Hong Kongers with dual Canadian nationality, following the announcement by the Hong Kong Government that prisoners must declare the nationality they wish to maintain.¹⁹

¹⁵ <https://www.theguardian.com/world/2021/jan/29/britain-launches-visa-scheme-for-hong-kong-citizens>

¹⁶ <https://www.globaltimes.cn/page/202101/1214374.shtml>

¹⁷ <https://www.scmp.com/comment/opinion/article/3118681/stripping-british-national-overseas-passport-holders-hong-kong>

¹⁸ <https://www.scmp.com/news/hong-kong/politics/article/3118922/retaliation-british-bno-visa-scheme-hong-kong-election>

¹⁹ <https://nationalpost.com/news/300000-dual-citizens-in-hong-kong-must-choose-between-canada-and-china-after-policy-change>

Commenting on the change, a spokesperson for the Canadian Government on 27 January expressed concern about the potential loss of consular access this could lead to for Canadian citizens. This change has led analysts to speculate that it may be part of a wider move by the Chinese Communist Party to restrict dual-nationality within the city.

CAPITAL OUTFLOWS FROM HONG KONG

Elliot Management leaves Hong Kong

The US hedge fund Elliot Management announced on 19 January that it is closing its Hong Kong office, marking one of the first large financial institutions to shutter operations in the territory since the introduction of the National Security Law back in July 2020. Elliot will transfer its staff from Hong Kong to Tokyo.²⁰

Bank of America estimates capital outflows of HK\$280 billion (\$36 billion) this year

A report published by the Bank of America on 14 January 2020 found that Hong Kong residents leaving the city could trigger capital outflows of HK\$280 billion (\$36 billion) this year. The analysis of capital outflows includes the sale of property and withdraw of pensions savings. The Bank of America estimates that over five years, BofA said the capital outflow from Hong Kong could reach HK\$588 billion (\$75.8 billion).²¹

Financial Times reports asset fund managers questioned over decision to leave the city

The Financial Times reported this month that asset fund managers and bankers leaving Hong Kong for alternative financial centres are facing unusual questioning from government agencies on their decision to leave the city.²²

Fund managers said that while it was not uncommon for the Securities and Futures Commission of Hong Kong to contact funds leaving Hong Kong to ask about a change in licensing status, the calls from the other agencies and the tone of the questioning were unusual.

²⁰ <https://www.ft.com/content/f47107f8-8f9e-4a42-85d4-52c4b3707a13>

²¹ <https://www.reuters.com/article/uk-hongkong-finance-outflows/hong-kong-emigration-to-britain-could-mean-36-billion-capital-outflow-idUSKBN29J0WM>

²² <https://www.ft.com/content/76f88fc4-a0c2-42dd-8419-5956477c4a4a>

RESPONSES TO THE LATEST DEVELOPMENTS

The US Government introduces additional sanctions on Hong Kong and Chinese officials

In response to the mass arrest of the pro-democracy candidates and organisers of last year's primaries in Hong Kong, the US State Department announced additional sanctions on six Hong Kong and Chinese officials responsible for “developing, adopting, or implementing the National Security Law” the draconian National Security Law.

The individuals sanctioned include You Quan, vice chairman of Beijing's Central Leading Group on Hong Kong and Macau Affairs, Sun Qingye, deputy director of Hong Kong's national security office, Tam Yiu-Chung, a Hong Kong delegate to China's National People's Congress Standing Committee, as well as three officers of the National Security Division of the Hong Kong police- Frederic Choi Chin-Pang, Kelvin Kong Hok Lai, and Andrew Kan Kai Yan.²³

European Parliament calls for Magnitsky sanctions, lifeboat, extradition, UN special envoy and stronger human rights provisions in the EU-China Investment Partnership

On 21 January 2021, the European Parliament debated the recent arrests in Hong Kong under the National Security Law and unanimously passed a joint-resolution by 567 votes calling for the EU Commission and EU Member States to urgently act in response to the deteriorating human rights situation.

The joint-resolution included calls:

- To introduce Magnitsky sanctions against individuals in Hong Kong and China, including Carrie Lam, Teresa Yeuk-wah Cheng, Bao-long Xia, Xiao-ming Zhang, Hui-ning Luo, Yan-xiong Zheng, Ping-kien Tang, Wai-chung Lo and Ka-chiu Lee.
- To implement a lifeboat scheme for Hong Kongers.
- For EU Member States to suspend their extradition treaties with the People's Republic of China.
- For the creation of a UN Special Rapporteur or Envoy for Hong Kong.

²³ <https://www.reuters.com/article/us-hongkong-security-usa-sanctions-idUSKBN29K1RC>

MEPs also reaffirmed their commitment to ensure that the EU-China Investment Partnership is seen through the prism of human rights when it comes to whether the European Parliament will ratify the treaty later this year.²⁴

HSBC testifies before the UK Parliament's Foreign Affairs Committee

On 26 January 2020, HSBC Chief Executive Noel Quinn and Colin Bell, Group Chief Compliance Officer gave evidence to the Foreign Affairs Select Committee in the House of Commons following HSBC's decision to freeze the accounts of pro-democracy activists, their families and church pastors.²⁵

MPs questioned the bank's support for the National Security Law, with Labour MP Chris Bryant accusing the bank of "aiding and abetting one of the biggest crackdowns on democracy in the world".

²⁴ <https://www.hongkongwatch.org/all-posts/2021/1/21/hong-kong-watch-calls-for-eu-27-foreign-ministers-meeting-on-monday-to-implement-urgent-actions-included-in-european-parliament-joint-resolution-on-hong-kong>

²⁵ <https://www.bbc.co.uk/news/business-55817917>