

HUMAN RIGHTS SITUATION IN HONG KONG:

HONG KONG WATCH BRIEFING ON EVENTS: MAY 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.

POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS

- Throughout May 2021, Beijing has continued its crackdown on the pro-democracy movement in Hong Kong, with:
 - the jailing of ten prominent pro-democracy leaders for participating in a peaceful assembly,
 - the sentencing of Joshua Wong and three pro-democracy activists for their participation in last year's June 4 vigil,
 - the banning of this year's annual June 4 vigil,
 - the arrest of six protestors for marking the June 4 vigil, the arrest and charging of two pro-democracy activists for 'sedition',
 - the denial of bail to the former pro-democracy lawmaker Claudia Mo on the grounds of correspondence with foreign journalists,
 - and the decision to move the national security trial of the 47 pro-democracy activists to the High Court to allow the prosecutors to pursue the harshest sentence possible - life in prison.

MOVES TO CONTINUE THE CRACKDOWN ON BASIC RIGHTS

- In the last month, the Hong Kong Government and Beijing have moved to continue their crackdown on basic rights, with:
 - the Hong Kong Police freezing the assets of Jimmy Lai amounting to HK\$500m,
 - the Hong Kong's High Court ruling that rights-based constitutional challenges cannot be applied to the National Security Law,
 - the Hong Kong Police Commissioner warning that "publishing fake news" could breach the National Security Law,

- Beijing expanding its presence in Hong Kong with new departments for national security and propaganda,
- and the Hong Kong Government introducing a new regulation forcing Hong Kongers to register their identity when buying pre-paid mobile phone sim cards.

ACADEMIC FREEDOM ON LIFE SUPPORT

- In the last month, Hong Kong's Chief Executive has warned that Hong Kong universities have been penetrated "by external forces with ulterior motives", Hong Kong university academics have raised concern about the impact of the National Security Law on academic freedom, and a trade union survey found that two in five teachers were considering quitting the profession as a result of political interference from Beijing.

EU-CHINA COMPREHENSIVE AGREEMENT ON INVESTMENT

- This month, Members of the European Parliament voted overwhelmingly to freeze the ratification of the EU-China Comprehensive Agreement on Investment following the sanctioning of European parliamentarians and officials. However, in the past two weeks the Spanish Prime Minister, the EU President Charles Michel, and the Irish and Hungarian Foreign Ministers have all called for the continuation of EU investment talks with China.

RESPONSES TO THE LATEST DEVELOPMENTS IN HONG KONG

- The UK Home Office has reported that it has received 34,400 applications for its BNO visa for Hong Kongers with British National Overseas status and their dependents.
- The Canadian Government has reported that it has received nearly 6,000 applications for its Young Talents Scheme, which will allow Hong Kong graduates and their dependents to move to Canada.
- Senators Marco Rubio and Bob Menendez proposed the "Safe Harbor" amendment, which would allow provisions of the Hong Kong Safe Harbor Act that grants Hongkongers special priority refugee status to be included into the Innovation and Competition Act of 2021.
- Six former UK foreign secretaries, spanning five governments, have written to the UK Prime Minister to call for the inclusion of the crisis in Hong Kong on the G7 agenda.
- The Biden Administration announced on the 4 June 2021, that it has expanded the number of Chinese companies on its sanctions list.
- Baroness Hale of Richmond, the first female President of the UK Supreme Court, has announced that she will stand down from serving on the Hong Kong Court of Final Appeal.
- A group of 26 European Parliamentarians from 9 Member States led by Engin Eroglu MEP have written to the EU Commission calling for the EU to introduce a lifeboat scheme.
- 55 activists in exile have called for "urgent coordinated action to suspend all Bilateral Extradition Agreements between EU Member States and the People's Republic of China."

POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS

Throughout May 2021, Beijing has continued its crackdown on the pro-democracy movement in Hong Kong, with further arrests, charges, and the continuation of trials against prominent pro-democracy activists.

Ten prominent pro-democracy leaders jailed for participating in an ‘unauthorised assembly’ in 2019

On 28 May 2021, ten pro-democracy activists including the owner of Apple Daily newspaper Jimmy Lai, veteran pro-democracy activist Albert Ho, trade unionist Lee Cheuk-Yan and Avery Ng, were jailed for attending an unauthorised assembly on 1 October 2019 as part of the anti-Extradition Bill protests.

Figgo Chan, convenor of the Civil Human Rights Front, and former pro-democracy lawmakers Lee Cheuk-Yan, “Long Hair” Leung Kwok-hung and Albert Ho all received 18 months in prison. Jimmy Lai, Avery Ng, Richard Tsoi and former pro-democracy lawmakers Cyd Ho, Sin Chung-Kai and Yeung Sum received 14 months in prison.

Among the ten pro-democracy activists, four were previously sentenced to jail in relation to two other cases of unauthorized assembly that happened on 8 August and 31 August 2019. Lee-Cheuk Yan faces 20 months in prison over a total of three cases, Leung Kwok-Hung 22 months over two cases, Albert Ho a year over two cases, and Jimmy Lai 20 months over two cases with a trial under the National Security Law pending.¹

Pro-democracy activists sentenced for attending last year’s Tiananmen Square vigil

On 6 May 2021, courts in Hong Kong sentenced pro-democracy activists Joshua Wong and Lester Shum and two district councillors for their participation in the annual June 4 Tiananmen Square Vigil last year.

Joshua Wong, who is already serving 13.5 months in prison for his participation in an “unauthorised protest”, received an additional 10 months for his attendance at the vigil. Lester Shum received 6 months, and the two district councillors Tiffany Yuen and Jannelle Leung both received 4-month sentences.

On the same day, a judge sentenced three protestors all in their 20s up to four years in prison for “rioting”, despite stating that there was no evidence of three individuals being physically involved or present. Under the legal principle of joint-enterprise, the Justice

¹ <https://www.hongkongwatch.org/all-posts/2021/5/28/the-jailing-of-10-pro-democracy-activists-for-over-a-year-makes-a-mockery-of-claims-that-the-hong-kong-government-continues-to-allow-free-expression-in-the-city>

Department and judge argued that they needed to set a ‘deterrent’ and that the accused should face the same punishment as those involved in confronting the police.²

Hong Kong Government arrests protestors and bans the annual June 4 Vigil

Several days before the annual June 4 vigil marking the Tiananmen Square massacre in Hong Kong, the Hong Kong Government warned that anyone taking part would receive up to five years in prison and a year in prison for advertising the event.³

The Hong Kong Police arrested the prominent pro-democracy activist Grandma Wong on 31 May 2021, following the announcement of the ban, on suspicion of taking part in an unauthorised assembly.⁴

On 4 June 2021, over 7,000 Hong Kong police officers were deployed to Victoria Park to prevent Hong Kongers from assembling.

Following spontaneous protests on the streets of Hong Kong with people lighting candles and using their phone lights, the Hong Kong police arrested six people for inciting or taking part in an unauthorised assembly⁵ including Chow Hang Tung, vice chairwoman of the Hong Kong Alliance which organises the annual vigil.⁶

Two pro-democracy activists are arrested for ‘conspiracy to print and publish seditious materials’

On 8 June 2021, the National Security Police arrested and charged two individuals under Hong Kong’s colonial era sedition laws. The two individuals stand accused of ‘conspiracy to print and publish seditious materials’ and could face up to two-three years in prison.⁷

Former pro-democracy lawmaker denied bail for messages with foreign journalists

The former pro-democracy lawmaker Claudia Mo, who is currently being detained under the National Security Law for her participation in the pro-democracy primaries last year, on May 28 2021 had her bail request denied on the grounds of Whatsapp conversations she had with journalists from the Wall Street Journal and BBC World.⁸

² <https://www.hongkongwatch.org/all-posts/2021/5/6/todays-sentencing-of-pro-democracy-activists-is-a-monstrous-abuse-of-the-legal-system>

³ <https://hongkongfp.com/2021/05/29/up-to-5-years-prison-for-attending-tiananmen-massacre-vigil-hong-kong-govt-warns-1-year-jail-for-publicising-it/>

⁴ <https://www.scmp.com/news/hong-kong/law-and-crime/article/3135435/coronavirus-activist-grandma-wong-arrested-over>

⁵ <https://www.scmp.com/news/hong-kong/politics/article/3136117/hong-kongs-tiananmen-vigil-candles-crowds-nowhere-sight>

⁶ <https://www.bbc.com/news/world-asia-57353803>

⁷ <https://www.scmp.com/news/hong-kong/law-and-crime/article/3136406/hong-kong-national-security-police-charge-two-people>

⁸ <https://twitter.com/TMclaughlin3/status/1398113451591946240>

The national security trial of 47 pro-democracy activists is moved to the High Court

On 31 May 2021, courts granted an application by the Hong Kong Government to move the national security trial of the 47 pro-democracy activists to the High Court.⁹

The 47 pro-democracy activists are accused of organising and participating in ‘subversion’ following their involvement in last year’s democratic primary elections.

Defendants tried at Hong Kong’s High Court can face the maximum sentence, which for the National Security Law is life in prison.

MOVES TO CONTINUE THE CRACKDOWN ON BASIC RIGHTS

Hong Kong Government freezes Jimmy Lay’s assets amounting to HK\$500m

The Hong Kong Government froze the financial assets of Jimmy Lai, the pro-democracy activist and owner of Apple Daily, on 14 May 2021.

Hong Kong’s Security Minister, John Lee, evoked Article 43 of the National Security Law which gives the Hong Kong Security Bureau and Beijing the power to freeze the assets of any individual or company within the city.

It is reported that the assets frozen involve HK\$500 million, including shares in Next Digital, and the property in three local bank accounts of three companies owned by Jimmy Lai.¹⁰

On 27 May 2021, it was reported that Hong Kong’s Security Minister sent letters to HSBC and Citibank, as well as to Jimmy Lai, threatening up to seven years in prison if there are any dealings in the assets and accounts in his name.¹¹

Commenting on the freezing of Jimmy Lai’s assets, Benedict Rogers, Hong Kong Watch’s Chief Executive said:

“Jimmy Lai currently languishes in jail for the ‘crime’ of criticising the Chinese Communist Party and campaigning for democracy.

Beijing’s decision to freeze his assets with the stroke of a pen and without due process under the National Security Law is an abuse of power. This decision undermines the rule of law and vandalises Hong Kong’s status as an international financial centre.

⁹ <https://hongkongfp.com/2021/05/31/hong-kong-activists-accused-of-national-security-crimes-could-face-life-in-jail-after-move-to-secure-high-court-trial/>

¹⁰ <https://www.hongkongwatch.org/all-posts/2021/5/20/city-am-beijing-has-done-irreparable-damage-to-hong-kong-after-freezing-top-media-moguls-assets-johnny-patterson>

¹¹ https://www.reuters.com/world/china/exclusive-hong-kong-security-chief-threatens-tycoon-lais-bankers-with-jail-if-2021-05-27/?utm_medium=Social&utm_source=twitter

After today, nobody can be certain who next will have their assets in Hong Kong arbitrarily seized under the National Security Law."¹²

Hong Kong's High Court rules that rights-based constitutional challenges cannot be applied to the National Security Law

On 20 May 2021, Hong Kong's High Court ruled that rights-based constitutional challenges cannot be applied to the National Security Law – confirming that the draconian law supersedes Hong Kong's Basic Law which guarantees human, civil and political rights that Hong Kongers have enjoyed since the territory was handed over in 1997.¹³

Police Commissioner warns that "publishing fake news" could breach the National Security Law

Hong Kong's Police Commissioner Chris Tang warned on 11 May 2021 that journalists publishing "fake news" could amount to a breach of the national security law, saying his officers will be forced to respond if reports "incite hatred and divide society".¹⁴

The Police Commissioner's comments have fuelled growing concern that the draconian law will be used to target journalists and curb the freedom of the press in Hong Kong. The pro-democracy publication, Apple Daily, is widely expected to be targeted under the law.

Beijing to expand presence in Hong Kong with new national security and propaganda offices

On 24 May 2021, it was reported in the Chinese press that Beijing intends to expand its presence in Hong Kong, with its Hong Kong and Macau Affairs Office being enlarged to include a new department for national security and propaganda.

According to multiple mainland Chinese sources, the new department responsible for national security affairs will be led by former liaison office legal affairs director Wang Zhenmin.

Yang Guang, one of the spokesmen for the Hong Kong and Macau Affairs Office who previously hosted press conferences hitting out at Hong Kong's anti-Extradition Bill protests in 2019, is expected to head the department tasked with managing media outlets and public opinion in the city.¹⁵

¹² <https://www.hongkongwatch.org/all-posts/2021/5/14/freezing-jimmy-lais-assets-undermines-the-rule-of-law-and-vandalises-hong-kongs-status-as-an-international-finance-centre>

¹³ https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=135853&currpage=T

¹⁴ <https://news.rthk.hk/rthk/en/component/k2/1590330-20210511.htm>

¹⁵ https://www.scmp.com/news/hong-kong/politics/article/3134673/beijing-expand-hong-kong-office-two-new-departments?utm_source=HRIC%20Updates&utm_campaign=0902818c29-HRIC_DAILY_BRIEF_COPY_01&utm_medium=email&utm_term=0_b537d30fde-0902818c29-259225545

Hong Kong Government introduces a new identity law for pre-paid sim cards

The Hong Kong Government has approved a new law, which would require Hong Kongers buying pre-paid mobile phone sim cards to register their identities.

As part of the new regulations, individuals will have to provide Hong Kong identity card details, their date of birth, and an address. It also brings in a cap on the number of pre-paid sims individuals and companies can buy.

Secretary for Commerce and Economic Development, Edward Yau, has said the regulations are needed to plug “gaping loop-holes” and allow law enforcement officers to better investigate crime.¹⁶

Carrie Lam backs Beijing’s anti-sanctions law

Hong Kong’s Chief Executive, Carrie Lam, has given her backing to legislation currently going through the National People’s Congress Standing Committee, which would help Chinese companies and individuals side-step western sanctions.¹⁷

Under the proposals, companies that are subject to Western sanctions would be able to report damages to the commerce ministry and sue for compensation in Chinese courts.

It remains unclear how this legislation would work in practice, or be applied in the case of Hong Kong officials currently subject to US sanctions.

ACADEMIC FREEDOM ON LIFE SUPPORT

Carrie Lam claims Hong Kong universities have been penetrated “by external forces with ulterior motives”

Hong Kong’s Chief Executive, Carrie Lam, has accused Hong Kong universities of being penetrated by “external forces with ulterior motives”. In her weekly press conference on 8 June 2021, Carrie Lam warned university management to take measures to stop students being indoctrinated into taking illegal activities.¹⁸

In the same month, it was reported that the Hong Kong Chief Executive’s second son has secured a post-doctoral research position at Stanford University in California and France’s IHES (Institute of Advanced Scientific Studies), following his graduation from Harvard University.¹⁹

¹⁶ <https://hongkongfp.com/2021/06/02/hong-kongs-pre-paid-sim-card-users-must-register-under-new-law/>

¹⁷ <https://www.scmp.com/news/hong-kong/politics/article/3136472/hong-kong-leader-carrie-lam-says-beijings-anti-sanctions>

¹⁸ <https://news.rthk.hk/rthk/en/component/k2/1594824-20210608.htm>

¹⁹ <https://hk.appledaily.com/news/20210508/R4JW7T5MZNDMXOVHRUNZXPIPRA/>

Hong Kong university academics raise concern about academic freedom being under assault

A number of current Hong Kong university academics have raised concern about the growing assault on academic freedom as a result of the National Security Law.

According to 10 current and former faculty members and administrators at four universities their concerns about the ongoing crackdown under the National Security Law include the attack on academic freedom, self-censorship, staff retention and recruitment, and students' well-being.²⁰

A trade union survey finds that two in five Hong Kong teachers are thinking about quitting

According to a survey by the Professional Teachers' Union, which polled 1,178 secondary, primary and kindergarten teachers between April 29 and May 5, two out of five teachers in Hong Kong are thinking of quitting the profession.

Respondents who said that they were thinking of quitting, cited political pressure as a result of the National Security Law as a major reason.²¹

EU-CHINA COMPREHENSIVE AGREEMENT ON INVESTMENT

MEPs freeze consideration of CAI

On 20 May 2021, the European Parliament announced that it was freezing all consideration of the EU-China Comprehensive Agreement on Investment Agreement until the sanctions on European Parliamentarians are lifted.

The resolution, which passed with 599 votes in favour, states that: "any consideration of CAI and any discussion on ratification by the Parliament have justifiably been frozen because of Chinese sanctions; demands that China lift the sanctions before dealing with CAI, without prejudice to the final outcome of the ratification process."

It also stated that any future consideration of CAI would "take the situation in China, including in Hong Kong, into account".²²

²⁰ https://www.theatlantic.com/international/archive/2021/06/china-hong-kong-freedom/619088/?utm_content=edit-promo&utm_campaign=the-atlantic&utm_source=twitter&utm_medium=social&utm_term=2021-06-06T06%3A00%3A58

²¹ <https://news.rthk.hk/rthk/en/component/k2/1589985-20210509.htm>

²² <https://www.hongkongwatch.org/all-posts/2021/5/20/european-parliament-freezes-eu-china-investment-deal>

Beijing calls on France to help unfreeze CAI debate

Following the decision by MEPs to freeze consideration of CAI, China's Commerce Ministry called on the French Government to help restart investment talks between China and the EU.²³

Spanish PM says consensus on ratifying CAI can be found

In a phone call between President Xi Jinping, the Spanish Prime Minister, Pedro Sanchez said that he was confident a consensus could be found in the EU to push ahead with the ratification of CAI.²⁴

Irish, Hungarian, and Polish foreign ministers travel to Beijing

In a trip to Beijing, designed to improve relations between the EU and China, the Irish Foreign Minister said CAI served common interests.²⁵ The Hungarian Foreign Minister, who received a medal of friendship from the Chinese Government, said his government supported the investment treaty.²⁶

Charles Michel says CAI is a “huge step in the right direction” and includes commitments from China on social rights

Speaking to reporters ahead of the expanded G7 summit, EU President, Charles Michel, said that CAI was a huge step in the right direction and includes commitments from China on social rights.²⁷

²³ <https://www.scmp.com/economy/china-economy/article/3134946/china-eu-investment-deal-beijing-calls-france-help-unfreeze>

²⁴ <https://www.globaltimes.cn/page/202105/1224663.shtml>

²⁵ <https://www.globaltimes.cn/page/202105/1224986.shtml>

²⁶ <https://www.globaltimes.cn/page/202106/1225148.shtml>

²⁷ <https://www.france24.com/en/live-news/20210608-eu-chief-defends-china-deal-ahead-of-us-summit>

RESPONSES TO THE LATEST DEVELOPMENTS

BNO Visa Applications

The UK Home Office has reported that it has received 34,400 applications for its BNO visa for Hong Kongers with British National Overseas status and their dependents.²⁸

Canada's Young Talents Scheme

The Canadian Government has reported that it has received nearly 6,000 applications for its Young Talents Scheme, which will allow Hong Kong graduates and their dependents to move to Canada.²⁹

Safe Harbor Bill reintroduced in the US Senate

Senators Marco Rubio and Bob Menendez alongside bipartisan colleagues proposed the "Safe Harbor" amendment, which would allow provisions of the Hong Kong Safe Harbor Act that grants Hongkongers special priority refugee status to be included into the Innovation and Competition Act of 2021 sponsored by Senators Chuck Schumer and Todd Young.³⁰

Six former UK foreign secretaries call for Hong Kong to be on the G7 agenda

Six former UK foreign secretaries, spanning five governments, have written to the UK Prime Minister to call for the inclusion of the crisis in Hong Kong on the G7 agenda.³¹ A full copy of the letter, signed by Sir Malcolm Rifkind, Lord Hague, Lord Owen, Jack Straw, Dame Margaret Beckett MP and David Miliband, is available from Hong Kong Watch's website.

US Government expands the number of Chinese companies on its sanctions list

The Biden Administration announced on 4 June 2021 that it has expanded the number of Chinese companies on its sanctions list. As part of a President Executive Order signed by President Biden, 59 Chinese companies including Hikvision, Huawei, and a number of Chinese state-owned enterprises with links to the People's Liberation Army and accused of complicity in human rights violations are now barred from investing in the USA or receiving any US investment.³²

²⁸ <https://twitter.com/pritipatel/status/1397955556380454912?s=20>

²⁹ <https://www.scmp.com/news/world/united-states-canada/article/3134274/canadas-new-immigration-path-hongkongers-attracts>

³⁰ <https://www.hongkongwatch.org/all-posts/2021/5/21/senate-china-legislation-amended-to-include-hong-kong-safe-harbor-provisions>

³¹ <https://www.hongkongwatch.org/all-posts/2021/6/4/ectbkfx6raniq0ln8g9t9iqgcfbaoy>

³² <https://www.ft.com/content/91e6fb2a-6385-49b3-83aa-8044374805c4>

Senior UK judge to step down from the Hong Kong Court of Final Appeal

Baroness Hale of Richmond, the first female President of the UK Supreme Court, has announced that she will stand down from serving on the Hong Kong Court of Final Appeal.³³ She is the first UK judge to have stepped down from serving on the Hong Kong Court of Final Appeal since the National Security Law came into force last year.

MEPs call on EU leaders to press ahead with a lifeboat scheme for Hong Kongers

A group of 26 European Parliamentarians from 9 Member States led by Engin Eroglu MEP have written to the EU Commission calling for the EU to introduce a lifeboat scheme for Hong Kongers as a matter of urgency.³⁴

The letter was published in the same week that the German Government criticised Hungary for continuing to use its veto to block a joint-EU statement on Hong Kong which would have endorsed a package of measures, including an EU-wide lifeboat scheme.³⁵

Activists call for the suspension of EU extradition treaties with the PRC

55 activists in exile have called for “urgent coordinated action to suspend all Bilateral Extradition Agreements between EU Member States and the People’s Republic of China.” Signatories to the letter include former pro-democracy Hong Kong lawmaker Nathan Law; Chinese contemporary artist and activist, Ai Weiwei; Angela Gui, the daughter of abducted Hong Kong bookseller, Gui Minhai; Dolkun Isa, the President of the World Uyghur Congress; and Shao Jiang, a student leader during the Tiananmen Square protests of 1989.³⁶

³³ <https://www.thetimes.co.uk/article/lady-hale-quits-hong-kong-court-as-china-tightens-grip-09pjsvrbn>

³⁴ <https://www.hongkongwatch.org/all-posts/2021/5/26/european-parliamentarians-urge-the-eu-commission-to-institute-a-lifeboat-scheme-for-hong-kongers>

³⁵ <https://www.politico.eu/article/german-foreign-minister-slams-hungary-for-blocking-hong-kong-conclusions/>

³⁶ <https://www.hongkongwatch.org/all-posts/2021/5/20/over-50-activists-in-exile-call-for-immediate-suspension-of-all-extradition-treaties-between-european-member-states-and-mainland-china>