

# HUMAN RIGHTS SITUATION IN HONG KONG:

## HONG KONG WATCH BRIEFING ON EVENTS: SEPTEMBER 2021

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### EXECUTIVE SUMMARY

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#### POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS

Throughout September 2021, Beijing has continued its crackdown on the pro-democracy movement in Hong Kong, with:

- Three convenors of the pro-democracy group Student Politicism arrested under the National Security Law for “conspiracy to incite subversion”, including helping deliver snacks to prisoners.
- Pro-democracy activists Lee Cheuk-Yan, Albert Ho and Chow Yang-tung, convenors of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, formally charged with “inciting subversion”.
- The start of the second National Security Law trial. Ma Chun-man, is the second person to be tried under the National Security Law, on one count of inciting secession by chanting slogans and holding placards in favour of Hong Kong independence on 20 occasions between August 15 and November 22 2020, according to the prosecution.
- Seven pro-democracy activists pleading guilty to “unlawful assembly” after participating in a procession held on 1 July 2020 in response to the introduction of the National Security Law.

#### ACADEMIC FREEDOM ON LIFE SUPPORT

- The student union of the Chinese University of Hong Kong announced it was disbanding after the Chinese University of Hong Kong administration announced in February that the university would stop collecting fees for the union starting from September.
- The Hong Kong Metropolitan University became the latest higher education institute in Hong Kong to introduce a mandatory national security course.
- The Hong Kong University has ordered the removal of a statue commemorating protesters killed in China’s 1989 Tiananmen Square crackdown.

- Hong Kong's Education Bureau has announced that all Hong Kong schools will be required to display the Chinese national flag and hold weekly flag raising ceremonies "to promote affection for the mainland's people and a sense of belonging to the nation" under new regulations.

#### A SLEDGE HAMMER TO CIVIL SOCIETY & DEMOCRACY

- The Hong Kong Confederation of Trade Unions announced on 17 September 2021 that it is currently in the process of disbanding. The decision comes after reports in pro-Beijing outlets that the coalition of trade unions may become the target of a national security police investigation.
- 17 District Councillors in Hong Kong have been disqualified after the Hong Kong Government required them to "provide more information" "owing to doubts" over the validity of their oaths of allegiance.
- On 20 September 2021, the results of the Hong Kong Election Committee elections were announced, with just one opposition member elected to the 1,500-member body. Less than 8,000 Hong Kongers were eligible to vote.
- The Hong Kong Government has announced that the city's 36,000 electoral workers will undergo political vetting ahead of the upcoming Legislative Council elections, which are the first to take place under Beijing's new electoral system.
- The Chinese emblem has appeared at the top of several Hong Kong Government websites next to the local emblem following the passing of a new law, which requires the national flag to be prominent on government websites.

#### THE STATE OF THE RULE OF LAW

- On 11 October 2021, the Times newspaper reported that a Hong Kong district judge, Sham Siu-man, has left the territory for the UK. Sham Siu-man cites being targeted by pro-Beijing media outlet Wen Wei Po after he acquitted eight protestors involved in a protest in Wan Chai and another six protestors for rioting as the reason behind his decision to leave the territory.
- A judge speaking anonymously to Vice News has criticised the first National Security trial to take place in Hong Kong. The judge said that the court relied on a "questionable" understanding of criminal law concepts and sentenced Tong Ying-kit too harshly.
- In September 2021, the Hong Kong Court of Final Appeal considered the applicability by the Hong Kong Government of joint-enterprise for "unlawful assembly" and "rioting" cases. The ruling by the Hong Kong Court of Final Appeal will have a significant impact on a number of prosecutions the Hong Kong Government is pursuing in relation to the 2019 anti-Extradition Bill protests.
- In the Hong Kong Chief Executive's 2021 Policy Address, Carrie Lam announced that the Hong Kong Government would build a new "megacourt" to address the shortage

of space as it seeks to work through a backlog of arrests during the 2019 anti-Extradition Bill protests.

#### ARTICLE 23 NATIONAL SECURITY LEGISLATION TO BE INTRODUCED

- On 29 September 2021, Hong Kong's Security Secretary, Chris Tang, stated that the Hong Kong Government would consider drafting Article 23 national security legislation, which would look at the role of foreign organisations.
- In the Hong Kong Chief Executive's 2021 Policy Address, Carrie Lam confirmed that the Hong Kong Government would go ahead with introducing Article 23 national security legislation. She also confirmed that the Hong Kong Government would extend national security education and oath taking in the territory.
- Article 23 of Hong Kong's Basic Law gives the Hong Kong Government the power to introduce local national security legislation. In 2003, the Hong Kong Government attempted to introduce Article 23 national security legislation. This legislation was shelved following 500,000 Hong Kongers taking to the streets to protest.

#### OTHER DEVELOPMENTS

- The Chinese Government has delayed introducing the Anti-Foreign Sanctions Law to Hong Kong over concerns it may impact Hong Kong's status as an international financial centre.
- The Pandora Papers leak covering almost 12 million documents has found that two of Hong Kong's former Chief Executives, CY Leung and Tung Chee-hwa, have used offshore tax havens to hide their wealth and avoid paying tax.
- The UK Foreign Office has met with high profile British activists who are critical of the crackdown in Hong Kong, to warn them against travelling to third countries that still have active extradition treaties with Hong Kong.
- The European Parliament voted overwhelmingly on 16 September 2021 to endorse a new EU-China strategy report which places Hong Kong and human rights at the foundation of the Parliament's approach in dealing with the Chinese Government going forward.
- The co-chairs of the informal EU Parliament Hong Kong Watch Group have written to the EU Commission Presidents to mark the first anniversary of the National Security Law, calling for the introduction of Magnitsky sanctions against Hong Kong officials, the implementation of lifeboat schemes, and the suspension of extradition treaties with the People's Republic of China.
- Speaking at Hong Kong Watch's report launch at Conservative Party Conference, Baroness Helena Morrissey, the Chair designate of AJ Bell and one of the City's leading lights, has called for ESG investors concerned with human rights to divest from Chinese companies.

- Lord Lister, the former advisor to the UK Prime Minister Boris Johnson, has been appointed to advise HSBC. His focus will be on China and its second headquarters in Hong Kong.

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## **POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS**

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### **Three convenors of Student Politicism arrested and prison supplies of chocolates and baby powder confiscated**

On 20 September 2020, three convenors of the pro-democracy group Student Politicism were arrested under the National Security Law for “of conspiracy to incite subversion”, including helping deliver snacks to prisoners.

Police raided the group’s warehouse and seized large quantities of sweets, surgical masks, biscuits, lotion, and books - all items on a list of goods prisoners are allowed to receive from outside - as evidence.<sup>1</sup>

### **Tiananmen Square Vigil organisers charged with ‘inciting subversion’**

On 9 September 2020, pro-democracy activists Lee Cheuk-Yan, Albert Ho and Chow Yang-tung, convenors of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, were formally charged with ‘inciting subversion’.

If the pro-democracy activists are convicted, they face up to ten years in jail. Following being charged, Albert Ho stepped down from three civil society groups: Hong Kong Alliance in Support of Patriotic Democratic Movements of China, New School for Democracy and China Human Rights Lawyers Concern Group.<sup>2</sup>

### **Hong Kong’s second National Security trial focuses on freedom of speech**

September saw the start of the second National Security Law trial. Ma Chun-man is the second person to be tried under the National Security Law, on one count of inciting secession.

Ma Chun-man is alleged to have chanted slogans, held up placards and spoke publicly in favour of Hong Kong independence on 20 occasions between August 15 and November 22 2020, according to the prosecution.

Ma Chun-man has been remanded in custody since November. He will receive his verdict on October 25 and could be jailed for up to seven years upon conviction.<sup>3</sup>

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<sup>1</sup> <https://www.reuters.com/world/china/hong-kong-police-arrest-three-members-student-prisoner-support-group-2021-09-20/>

<sup>2</sup> <https://www.scmp.com/news/hong-kong/politics/article/3148591/albert-ho-veteran-leader-hong-kong-opposition-camp-resigns>

<sup>3</sup> <https://www.thestandnews.com/english/slogan-chanter-wanted-to-test-free-speech-protections-under-hong-kong-security-law-court-told>

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## **Seven pro-democracy activists plead guilty to “unlawful assembly” in response to the National Security Law**

Seven pro-democracy activists, including former lawmaker and Democratic Party chairman Wu Chi-wai, ex-district councillors Andy Chui Chi-kin and Tsang Kin-shing, former lawmakers “Long Hair” Leung Kwok-hung and Eddie Chu Hoi-dick, former convenor of the now-dissolved Civil Human Rights Front Figo Chan Ho-wu, and activist Tang Sai-lai all pleaded guilty to knowingly taking part in an “unauthorised assembly”.

The seven pro-democracy activists led a march on 1 July 2020 on Hong Kong Island the day after Beijing imposed the National Security Law on Hong Kong.<sup>4</sup>

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## **ACADEMIC FREEDOM ON LIFE SUPPORT**

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### **The Student Union of the Chinese University of Hong Kong disbands**

On 7 October 2021, the student union of the Chinese University of Hong Kong announced it was disbanding after the Chinese University of Hong Kong administration announced in February that the university would stop collecting fees for the union starting from September.

Six of Hong Kong’s eight publicly funded universities ceased collecting membership fees for their student unions in September, severing the official link between university administrations and student unions.

The Chinese University of Hong Kong Student Union is the second student body to disband in Hong Kong since the passing of the National Security Law. The University of Hong Kong Students’ Union disbanded in August 2021.<sup>5</sup>

### **Hong Kong Metropolitan University introduces mandatory national security education**

The Hong Kong Metropolitan University is the latest higher education institute in Hong Kong to introduce a mandatory national security course.

On 4 October 2021, the university announced that from November students will be required to complete a mandatory module learning about the National Security Law before they are able to graduate.<sup>6</sup>

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<sup>4</sup> <https://www.scmp.com/news/hong-kong/law-and-crime/article/3151537/national-security-law-7-hong-kong-activists-ex>

<sup>5</sup> <https://www.universityworldnews.com/post.php?story=20211007140203859>

<sup>6</sup> <https://www.scmp.com/news/hong-kong/education/article/3151045/hong-kong-metropolitan-university-latest-introduce>

## **Hong Kong University orders the removal of Tiananmen Square massacre statue**

The Hong Kong University has ordered the removal of a statue commemorating protesters killed in China's 1989 Tiananmen Square crackdown. The statue, called the Pillar of Shame, shows 50 anguished faces and tortured bodies piled on one another, and has been on display at Hong Kong's oldest university for more than two decades.<sup>7</sup>

## **Hong Kong schools required to display Chinese national flag and hold flag raising ceremonies**

Hong Kong's Education Bureau has announced that all Hong Kong schools will be required to display the Chinese national flag and hold weekly flag raising ceremonies "to promote affection for the mainland's people and a sense of belonging to the nation" under new regulations.<sup>8</sup>

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## **A SLEDGE HAMMER TO CIVIL SOCIETY & DEMOCRACY**

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## **Hong Kong Confederation of Trade Unions announces that it is disbanding**

The Hong Kong Confederation of Trade Unions announced on 17 September 2021 that it is currently in the process of disbanding. Founded in 1990, the Hong Kong Confederation of Trade Unions championed workers' rights and represented 145,000 members from 93 different groups covering a broad-spectrum including aviation, construction, catering, retail and social welfare.

The decision comes after reports in pro-Beijing outlets that the coalition of trade unions may become the target of a national security police investigation. The Hong Kong Confederation of Trade Unions becomes the latest civil society group to disband, following the recent disbandment of the largest teachers' trade union and the pro-democracy coalition which organised the city's mass pro-democracy marches.<sup>9</sup>

## **District councillors disqualified for being "insufficiently patriotic"**

In September 2021, 17 District Councillors in Hong Kong have been disqualified after the Hong Kong Government required them to "provide more information" "owing to doubts" over the validity of their oaths of allegiance.

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<sup>7</sup> <https://www.theguardian.com/world/2021/oct/09/hong-kong-university-orders-removal-of-tiananmen-square-massacre-statue>

<sup>8</sup> <https://hongkongfp.com/2021/10/12/all-hong-kong-schools-must-display-chinese-national-flag-hold-weekly-flag-raising-ceremonies-from-next-year/>

<sup>9</sup> <https://hongkongfp.com/2021/09/17/just-in-hong-kong-confederation-of-trade-unions-in-process-of-disbanding-vice-chair-confirms/>

The Hong Kong Government introduced mandatory oaths of allegiance for the city's local-level councillors earlier this year, after requiring all civil servants to take the same pledge shortly after Beijing's passing of the national security law last summer. The introduction of oaths of allegiance led to over 200 District Councillors resigning over the Summer.<sup>10</sup>

### **One opposition member elected to the Hong Kong Election Committee**

On 20 September 2021, the results of the Hong Kong Election Committee elections were announced, with just one opposition member elected to the 1,500-membership body. Less than 8,000 Hong Kongers were eligible to vote.

The Hong Kong Election Committee historically has selected the Chief Executive of Hong Kong and under Beijing's electoral changes will have new powers to select 40 of 90 members of Hong Kong's Legislative Council.<sup>11</sup>

### **Electoral workers to undergo political vetting**

The Hong Kong Government has announced that the city's 36,000 electoral workers will undergo political vetting ahead of the upcoming Legislative Council elections, which are the first to take place under Beijing's new electoral system.<sup>12</sup>

### **Chinese Government emblem appears on Hong Kong Government websites as part of a new law**

The Chinese emblem has appeared at the top of several Hong Kong Government websites next to the local emblem following the passing of a new law, which requires the national flag to be prominent on government websites.<sup>13</sup>

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## **THE STATE OF THE RULE OF LAW**

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### **The first District Court Judge resigns and leaves Hong Kong following attacks from a pro-Beijing media outlet**

On 11 October 2021 the Times newspaper reported that a Hong Kong district judge, Sham Siu-man, has left the territory for the UK. Sham Siu-man cites being targeted by pro-Beijing media outlet Wen Wei Po after he acquitted eight protestors involved in a protest in Wan

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<sup>10</sup> <https://hongkongfp.com/2021/10/05/16-more-democratically-elected-district-councillors-face-disqualification-over-hong-kong-govt-loyalty-oaths/>

<sup>11</sup> <https://www.independent.co.uk/news/hong-kong-china-carrie-lam-beijing-chinese-communist-party-b1923129.html>

<sup>12</sup> <https://hongkongfp.com/2021/09/28/absolute-loyalty-36000-hong-kong-electoral-workers-to-undergo-political-vetting-in-upcoming-legislative-race/>

<sup>13</sup> <https://hongkongfp.com/2021/10/08/chinese-emblem-appears-on-hong-kong-govt-websites-local-emblem-shrinks/>



Chai and another six protestors for rioting as the reason behind his decision to leave the territory.

Wen Wei Po complained that justice was not served and his rulings prompted other pro-Beijing outlets to call for reforms to Hong Kong's rule of law and judicial independence.<sup>14</sup>

### **A Hong Kong Judge criticises the first National Security trial**

A judge speaking anonymously to Vice News has criticised the first National Security trial to take place in Hong Kong. The judge said that the court relied on a “questionable” understanding of criminal law concepts and sentenced Tong Ying-kit too harshly.<sup>15</sup>

On 29 July 2021, Tong Ying-kit became the first person to be sentenced under the National Security Law, receiving nine years in jail which included six and a half years for “incitement of succession” for carrying a banner with the pro-democracy slogan “Liberate Hong Kong, revolution of our times.”<sup>16</sup>

### **The Hong Kong Court of Final Appeal considers joint-enterprise for “unlawful assembly” and “rioting”**

In September 2021, the Hong Kong Court of Final Appeal considered the applicability by the Hong Kong Government of joint-enterprise for “unlawful assembly” and “rioting” cases.

The Department for Justice has argued that individuals who are not physically present at protests should be liable to be prosecuted under joint-enterprise for cases relating to “unlawful assembly” or “rioting”.

The ruling by the Hong Kong Court of Final Appeal will have a significant impact on a number of prosecutions the Hong Kong Government is pursuing in relation to the 2019 anti-Extradition Bill protests.<sup>17</sup>

### **Hong Kong Government proposes “megacourt” to deal with protest arrests backlog**

In the Hong Kong Chief Executive's 2021 Policy Address, Carrie Lam announced that the Hong Kong Government would build a new “megacourt” to address the shortage of space as it seeks to work through a backlog of arrests during the 2019 anti-Extradition Bill protests.<sup>18</sup>

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<sup>14</sup> <https://www.thetimes.co.uk/article/hong-kong-judge-who-acquitted-protesters-seeks-new-life-in-britain-vdqxj3kl2>

<sup>15</sup> <https://www.vice.com/en/article/93y47p/hong-kong-national-security-trial-tong-ying-kit>

<sup>16</sup> <https://edition.cnn.com/2021/07/30/asia/tong-ying-kit-hong-kong-sentencing-intl-hnk/index.html>

<sup>17</sup> <https://hongkongfp.com/2021/10/05/hong-kongs-top-court-adjourns-verdict-over-whether-joint-enterprise-applies-to-rioting-cases/>

<sup>18</sup> <https://www.theguardian.com/world/2021/oct/07/hong-kong-plans-megacourt-deal-protest-arrests-backlog>

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## ARTICLE 23 NATIONAL SECURITY LEGISLATION TO BE INTRODUCED

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On 29 September 2021, Hong Kong's Security Secretary, Chris Tang, stated that the Hong Kong Government would consider drafting Article 23 national security legislation, which would look at the role of foreign organisations.<sup>19</sup>

In the Hong Kong Chief Executive's 2021 Policy Address, Carrie Lam confirmed that the Hong Kong Government would go ahead with introducing Article 23 national security legislation.<sup>20</sup> She also confirmed that the Hong Kong Government would extend national security education and oath taking in the territory.

Article 23 of Hong Kong's Basic Law gives the Hong Kong Government the power to introduce local national security legislation. In 2003, the Hong Kong Government attempted to introduce Article 23 national security legislation. This legislation was shelved following 500,000 Hong Kongers taking to the streets to protest.

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## OTHER DEVELOPMENTS

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### **China delays introducing the Anti-Foreign Sanctions Law to Hong Kong**

The Chinese Government has delayed introducing the Anti-Foreign Sanctions Law to Hong Kong over concerns it may impact Hong Kong's status as an international financial centre.<sup>21</sup>

### **Two former Hong Kong Chief Executives named in the Pandora Papers leaks**

The Pandora Papers leak covering almost 12 million documents has found that two of Hong Kong's former Chief Executives, CY Leung and Tung Chee-hwa, have used offshore tax havens to hide their wealth and avoid paying tax.<sup>22</sup>

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<sup>19</sup> <https://news.rthk.hk/rthk/en/component/k2/1612777-20210929.htm>

<sup>20</sup> [https://www.scmp.com/news/hong-kong/politics/article/3151331/hong-kong-leader-carrie-lams-2021-policy-address-will-chief?module=breaking\\_large\\_short\\_label\\_3&pgtype=homepage](https://www.scmp.com/news/hong-kong/politics/article/3151331/hong-kong-leader-carrie-lams-2021-policy-address-will-chief?module=breaking_large_short_label_3&pgtype=homepage)

<sup>21</sup> <https://twitter.com/ezracheungtoto/status/1444955491252064258?s=20>

<sup>22</sup> <https://www.aljazeera.com/news/2021/10/5/two-ex-hong-kong-leaders-named-in-pandora-papers-leak>

## **UK Foreign Office warns activists against travelling to countries with extradition treaties with Hong Kong**

The UK Foreign Office has met with high profile British activists who are critical of the crackdown in Hong Kong, to warn them against travelling to third countries that still have active extradition treaties with Hong Kong.<sup>23</sup>

## **EU Parliament passes a resolution calling for Hong Kong to be at the heart of a new EU-China Strategy**

The European Parliament voted overwhelmingly on 16 September 2021 to endorse a new EU-China strategy report which places Hong Kong and human rights at the foundation of the Parliament's approach in dealing with the Chinese Government going forward.

The new EU-China strategy calls "for result-oriented Human Rights Dialogues to be held on an annual basis" with China in which the EU should raise the situation of Hong Kong, underlines that it will take into account the human rights crisis in Hong Kong when determining its approach to China, reiterates calls for EU Member states to implement a lifeboat scheme for Hong Kongers, targeted sanctions against Hong Kong officials, and the suspension of extradition treaties with China, and outlining that any future consideration of the EU-China Comprehensive Agreement on Investment will include China's recommitment to the Sino-British Joint Declaration.<sup>24</sup>

## **EU Parliament Hong Kong Watch Group calls for Magnitsky sanctions, lifeboat schemes, and the suspension of extradition treaties**

The co-chairs of the informal EU Parliament Hong Kong Watch Group have written to the EU Presidents to mark the first anniversary of the National Security Law, calling for the introduction of Magnitsky sanctions against Hong Kong officials, the implementation of lifeboat schemes, and the suspension of extradition treaties with the People's Republic of China.<sup>25</sup>

## **Baroness Morrissey calls for investors to divest from China over human rights violations**

Speaking at Hong Kong Watch's report launch at Conservative Party Conference, Baroness Helena Morrissey, the Chair designate of AJ Bell and one of the City's leading lights, spoke

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<sup>23</sup> <https://www.theguardian.com/world/2021/sep/23/foreign-office-warned-uk-based-hong-kong-critics-about-extradition-risk-abroad>

<sup>24</sup> <https://www.hongkongwatch.org/all-posts/2021/9/16/todays-vote-ensures-that-hong-kong-and-human-rights-will-be-at-the-foundation-of-the-eu-parliaments-strategy-towards-china>

<sup>25</sup> <https://reinhardbuetikofer.eu/2021/09/21/anniversary-since-the-imposition-of-the-so-called-national-security-law-for-hong-kong-letter-to-commission/>

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about why ESG investors must start taking their human rights commitments seriously, particularly in the context of China.<sup>26</sup>

### **Boris Johnson's former advisor appointed to advise HSBC**

Lord Lister, the former advisor to the UK Prime Minister Boris Johnson, has been appointed to advise HSBC. His focus will be on China and its second headquarters in Hong Kong.<sup>27</sup>

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<sup>26</sup> <https://www.hongkongwatch.org/all-posts/2021/10/4/baroness-morrissey-time-to-talk-about-investor-hypocrisy-and-the-need-for-investors-to-rethink-their-dealings-in-areas-where-there-are-clear-human-rights-abuses-including-china>

<sup>27</sup> <https://twitter.com/JAHeale/status/1438897157810139147?s=20>