

HUMAN RIGHTS SITUATION IN HONG KONG:

HONG KONG WATCH BRIEFING ON EVENTS: MARCH 2022

EXECUTIVE SUMMARY

POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS

In the last month, Beijing continued its crackdown on the pro-democracy movement in Hong Kong, with:

- Tam Tak-chi, activist, former radio DJ and former vice-chairperson of People Power, being found guilty of 11 charges, including “uttering seditious words”, under the colonial-era anti-sedition law.
- A combat coach and assistant arrested by national security police under the sedition law.
- The re-arrests of 13 men charged over China’s National Day protest in 2019.
- The suspension of Hong Kong’s court system as the Covid crisis in the city deepened.
- The International Bar Association’s Human Rights Institute calling on the international community to suspend extradition treaties with Hong Kong.

THE STATE OF THE RULE OF LAW

- One of Hong Kong’s most prominent British lawyers, Paul Harris, who was until January the chairman of the Hong Kong Bar Association, left the territory after being interviewed under caution by police on “suspicion of breaching national security”.
- Two UK judges resigned from the Hong Kong Court of Final Appeal as the UK Government says it no longer supports sitting UK judges serving on Hong Kong’s highest courts.
- An American lawyer released from prison has been deported and says he is banned from the city.
- Legal pacts between Hong Kong and Russia are expected to be brought to legislature this year.

STATE SECURITY AND ECONOMY

- International auditors PwC and Deloitte have resigned from China’s heavily indebted property developers as the number of delayed financial results has increased uncertainty over the full scale of the sector’s crisis and raised the threat of hidden debts.
- Hong Kong’s brain drain: in the first two months of the year alone, there were 78,000 departures from the city. This is added to the 0.3% drop in the overall population last year.

Economic activity plummeted in February to the lowest recorded level in 22 months, with even pro-government businesspeople raising the alarm.

HONG KONG WATCH TARGETED BY THE NSL

- Hong Kong Watch has become the first known foreign organisation to be targeted by the National Security Law (NSL).
- Hong Kong Watch received a formal warning from the Hong Kong Police Force's (HKPF) National Security Department regarding its website possibly breaching the National Security Law.
- The letter from HKPF accuses Hong Kong Watch of violating Article 29 of the National Security Law, which criminalises collusion with foreign forces to endanger national security. It warns that Hong Kong Watch could face a fine of HK\$100,000 or its Chief Executive could face three years in jail for the offence.

UK AND US GOVERNMENT REPORTS ON HONG KONG

- On the same day, the UK and US separately released key reports on the state of Hong Kong. The Foreign, Commonwealth & Development Office's 50th six-monthly report, covers the period from July to December 2021, and the US Department of State's 2022 Hong Kong Policy Act Report, covers the 12 months to March 2022.
- Both were unequivocal in their assessments of how far the National Security Law (NSL) has stifled freedom of expression and effectively silenced and crushed any political opposition.

OTHER DEVELOPMENTS

- Michelle Bachelet, the UN High Commissioner for Human Rights, announced that she would visit China in May, becoming the first person in her position to do so in 17 years. An advance team is expected to visit in April to prepare for her visit.
- Revolution of Our Times, a documentary that charts the 2019 protests in Hong Kong, has broken a box office record in Taiwan for an overseas Chinese-language documentary, grossing around \$17m NTD (US\$600,000) in the first two weeks of its release.
- The 23rd EU-China summit focused on Ukraine, but the EU also raised human rights concerns in China, including the dismantling of the "One Country Two Systems" in Hong Kong, saying that it expected the resumption of a human rights dialogue to address these concerns.

POLITICAL PRISONERS: ARRESTS, CHARGES & TRIALS

Hong Kong pro-democracy activist becomes first individual found guilty under sedition law since 1997

Tam Tak-chi, activist, former radio DJ and former vice-chairperson of People Power, was found guilty of 11 charges, including “uttering seditious words” under the colonial-era anti-sedition law. He had been remanded in custody since he was arrested in September 2020, and became the first person to stand trial on sedition charges since the city’s handover from Britain to China in 1997.¹

The conviction of Tam Tak Chi reflects another water-shed moment for the deteriorating human rights situation in Hong Kong, as Beijing resurrects colonial-era sedition laws to criminalise free speech. His case paves the way for Beijing to outlaw the popular 2019 pro-democracy slogan and potentially opens up thousands more Hong Kongers to the prospect of jail for the use of a single phrase.²

Combat coach and assistant arrested by national security police under sedition law

A 59-year-old combat coach and his 62-year-old assistant were arrested by officers from Hong Kong’s National Security Department for alleged “acts with seditious intention,” in a further example of the Hong Kong government using a colonial-era law to arrest dissenting individuals.

Police searched a shared event space that was used by the pair for combat training classes, where officers found evidence including posters that allegedly “incited hate” and electronic communication devices reportedly used to distribute seditious messages.³

Re-arrests for 13 men charged over China’s National Day protest in 2019

Hong Kong police re-arrested 13 men in connection with offences linked to a protest on October 1, 2019, the 70th anniversary of the founding of the People’s Republic of China. Police did not press charges at the time, but the individuals were apprehended again this month.⁴

They have been released on bail, with 12 of them charged with rioting in Wan Chai, and another stands accused of possessing anything with intent to destroy or damage property.⁵

¹ <https://hongkongfp.com/2022/03/02/breaking-hong-kong-pro-democracy-activist-found-guilty-under-colonial-era-sedition-law-over-speech-slogans/>

² <https://www.hongkongwatch.org/all-posts/2022/3/2/tam-tak-chis-sedition-charges-potentially-opens-up-thousands-of-hong-kongers-to-the-prospect-of-jail>

³ <https://hongkongfp.com/2022/03/21/hong-kong-combat-coach-and-assistant-arrested-by-national-security-police-under-colonial-era-sedition-law/>

⁴ <https://hongkongfp.com/2022/03/30/hong-kong-police-rearrest-13-men-over-2019-chinas-national-day-protest/>

⁵ <https://hongkongfp.com/2022/03/30/hong-kong-court-grants-bail-to-13-men-charged-over-chinas-national-day-protest-in-2019/>

It is a chilling reminder that the police, having arrested all of the key political opposition, are now targeting protestors from 2019/20.

Hong Kong suspends court system as virus crisis deepens

Covid cases spiked dramatically this month, completely blowing apart the city's zero-Covid policy, with 5,000 deaths and more than 1 million cases recorded by the middle of the month.⁶

Authorities announced that they would suspend court services for a month, saying that the judiciary would adjourn most hearings between March 7 and April 11 after "striking a balance between public health considerations and due administration of justice".⁷ The suspension excludes ongoing hearings and urgent applications while some in-person proceedings would be dealt with on paper instead.

The International Bar Association's Human Rights Institute calls on the international community to suspend extradition treaties with Hong Kong

Amid alleged intimidation by Hong Kong authorities of human rights defenders, including Benedict Rogers, the co-founder of Hong Kong Watch, the International Bar Association's Human Rights Institute (IBAHRI) called for on the international community to suspend extradition treaties with Hong Kong.⁸

There are many countries that still have extradition agreements in place with Hong Kong, and are yet to suspend them. These include Czech Republic, India, Indonesia, Malaysia, the Philippines, Portugal, Singapore, South Africa, South Korea and Sri Lanka.

THE STATE OF THE RULE OF LAW

British human rights barrister leaves Hong Kong after police questioning

One of Hong Kong's most prominent British lawyers, Paul Harris, who was until January the chairman of the Hong Kong Bar Association, left the territory after being interviewed under caution by police on "suspicion of breaching national security".⁹

The 68-year-old, who has worked on a series of successful human rights cases against the Hong Kong government and has been accused of being "anti-China" for his criticism of the NSL, was released after a two-and-a-half hour interview at HKPF headquarters. He was later filmed at Hong Kong airport, preparing to go through departure gates.¹⁰

⁶ <https://www.theguardian.com/world/2022/mar/18/hong-kong-covid-crisis-why-is-the-death-rate-so-high>

⁷ <https://www.france24.com/en/live-news/20220304-hong-kong-suspends-court-system-as-virus-crisis-deepens?fbclid=IwAR3R91fnhhBD-F5QoOVYwUIkBCCGN2GdpV5O0Kq9YDslpybxEY6bKwI8CU>

⁸ <https://www.ibanet.org/IBAHRI-calls-for-suspension-of-extradition-treaties-with-Hong-Kong>

⁹ <https://www.thetimes.co.uk/article/british-human-rights-barrister-leaves-hong-kong-after-police-questioning-n6wncnxmlh>

¹⁰ <https://www.ft.com/content/0f70fb83-89e3-467f-87c1-106c14fb077f>

UK judges resign from the Hong Kong Court of Final Appeal as UK Government says it no longer supports sitting UK judges serving on Hong Kong's highest courts

Two senior UK judges who sit on the UK Supreme Court have resigned from the Hong Kong Court of Final Appeal.¹¹ Lord Reed, the President of the UK Supreme Court, and Lord Hodge a Supreme Court Justice, resigned following a statement from the UK Government which said that “the situation has reached a tipping point where it is no longer tenable for British judges to sit on Hong Kong’s leading court, and would risk legitimising oppression”.¹² Hong Kong’s government condemned the move, as did Beijing, as “clear evidence of external political pressure on judges of an otherwise independent judiciary”.¹³

Six other British judges defied calls to stand down, releasing a statement saying that they believed their “continued participation” as overseas judges on the court of final appeal was “in the interest of the people of Hong Kong”.¹⁴

American lawyer released from prison is deported and says he is banned from the city

Samuel Phillip Bickett, an American lawyer imprisoned for assaulting a plainclothes police officer in Hong Kong in 2019, was released from prison and deported immediately to the US. He says he is now banned from the city.¹⁵

Bickett was jailed in July 2021 for intervening when a plainclothes officer was forcibly stopping a fare dodger at a Causeway Bay MTR station on December 7, 2019. He has maintained his innocence and said he intends to challenge his conviction up until the Court of Final Appeal.¹⁶

Legal pacts between Hong Kong and Russia expected to be brought to legislature this year

Two bilateral agreements between Hong Kong and Russia that would allow the jurisdictions to cooperate in criminal investigations and transfer convicts are expected to be tabled to lawmakers this year, bringing them a step closer to enforcement.¹⁷

¹¹ <https://www.hongkongwatch.org/all-posts/2022/3/30/sitting-uk-judges-resign-from-the-hong-kong-court-of-final-appeal>

¹² <https://www.gov.uk/government/news/foreign-secretary-supports-the-withdrawal-of-serving-uk-judges-from-the-hong-kong-court-of-final-appeal>

¹³ <https://www.scmp.com/news/hong-kong/politics/article/3172402/british-judicial-body-withdraw-judges-hong-kongs-top-court>

¹⁴ <https://www.thetimes.co.uk/article/six-uk-judges-defy-calls-to-leave-hong-kong-court-8kcw2rqrq>

¹⁵ <https://hongkongfp.com/2022/03/23/american-lawyer-released-from-prison-says-banned-from-hong-kong-after-multi-year-legal-saga/>

¹⁶ <https://hongkongfp.com/2022/03/26/after-jail-time-and-deportation-from-hong-kong-us-lawyer-samuel-bickett-mulls-appeal-to-top-court/>

¹⁷ <https://hongkongfp.com/2022/03/28/legal-pacts-between-hong-kong-and-russia-expected-to-be-brought-to-legislature-this-year/>

STATE SECURITY AND ECONOMY

Major accounting firms resign from indebted property groups as postponed results raise threat of hidden debts

International auditors PwC and Deloitte have resigned from China's heavily indebted property developers as the number of delayed financial results has increased uncertainty over the full scale of the sector's crisis and raised the threat of hidden debts. Between them, they have resigned as auditors of at least five Chinese developers in the past three months.¹⁸

The move comes amid the suspension of trading in shares of Evergrande, the world's most indebted property developer, pending the release of "inside information" from the company that could shed light on its restructuring.¹⁹

Hong Kong brain drain intensifies amid Covid and NSL

In the first two months of 2022, there were 78,000 departures from the city. This augments the 0.3% drop in the population last year.²⁰ Economic activity plummeted in February to the lowest recorded level in 22 months, with even pro-government businesspeople raising the alarm. Peter Wong, chair of the Hong Kong General Chamber of Commerce and former HSBC Asia Pacific chief executive, said: "Hong Kong is facing an exodus of educated workers on a scale not seen since the early 1990s."²¹

There were a total of 103,900 BNO visa applications made to the end of 2021,²² while Hong Kong migration to Canada soared to levels unseen since 1998, as more than 22,500 Hong Kongers received Canadian permanent residency, work or study permits in 2021, up 256 per cent from 2019.²³

HONG KONG WATCH TARGETED BY THE NSL

In a disturbing expansion of repression, Hong Kong Watch has become the first known foreign organisation to be targeted by the National Security Law (NSL).

Hong Kong Watch received a formal warning from the Hong Kong Police Force's (HKPF) National Security Department regarding its website possibly breaching the National Security

¹⁸ <https://www.ft.com/content/1114aece-4a8a-479a-815f-1828aa6b12e6>

¹⁹ <https://www.ft.com/content/7b173ea8-dc3e-477b-a6bd-4bc478d0c4e1>

²⁰ <https://www.thetimes.co.uk/article/hong-kong-suffers-brain-drain-as-thousands-flee-covid-and-draconian-laws-nm7kdlg6l>

²¹ <https://www.ft.com/content/f77c5717-cb9a-4a0d-a2d3-5761592ba80a>

²² <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2021/how-many-people-come-to-the-uk-each-year-including-visitors#british-national-overseas-bno-route>

²³ <https://www.scmp.com/news/china/diplomacy/article/3172326/hong-kong-migration-canada-soars-levels-unseen-1998-domino>

Law. This makes Hong Kong Watch one of the first foreign organisations to be targeted under the draconian law.

The letter from HKPF accuses Hong Kong Watch of violating Article 29 of the National Security Law, which criminalises collusion with foreign forces to endanger national security. It warns that Hong Kong Watch could face a fine of HK\$100,000 or its Chief Executive could face three years in jail for the offence.

As a result of this accusation, the HKPF in its letter has confirmed that it is using the National Security Law to block Hong Kong Watch's website in Hong Kong, which was previously reported in early February 2022.²⁴

The UK's Foreign Secretary Liz Truss called it an "unjustifiable" attempt to silence those who speak up for freedom and democracy.²⁵ In the Canadian Parliament, Senator Leo Housakos condemned the threat.²⁶ Benedict Rogers received support from across the UK political spectrum, from, among others, Sarah Champion MP, Dr Liam Fox MP, Jeremy Hunt MP, Sir Iain Duncan Smith MP, Tom Tugendhat MP, Layla Moran MP, and Catherine West MP.²⁷

UK AND US GOVERNMENT REPORTS ON HONG KONG

The UK and US governments separately published key reports on the state of Hong Kong, both condemning the drastic reduction in freedoms since the passing of the National Security Law (NSL). The UK published its 50th six-monthly report on Hong Kong, covering July to December 2021. In her foreword, Foreign Secretary Liz Truss said:

In less than two years, China's National Security Law in Hong Kong has seen opposition stifled and dissent criminalised.

Alternative voices in Hong Kong's executive, legislature, civil society and media have been all but extinguished. The National Security Law has devastated Hong Kong's civil society, as individuals and groups have been forced to disband or self-censor, fearing arrest.

China claims it has strengthened Hong Kong's democracy, but its actions tell another story – almost all of Hong Kong's pro-democracy opposition are now either detained, arrested or have chosen to leave Hong Kong.²⁸

The US State Department reached similar conclusions in its 2022 Hong Kong Policy Act Report, covering the past 12 months, stating:

²⁴ <https://www.hongkongwatch.org/all-posts/2022/3/14/hong-kong-watch-co-founder-and-ceo-benedict-rogers-threatened-under-national-security-law>

²⁵ <https://www.gov.uk/government/news/foreign-secretary-statement-on-hong-kong-watch-march-2022>

²⁶ https://twitter.com/SenatorHousakos/status/1506339986483957761?s=20&t=f2uD1tw_Wi6Q1nYATTqkjg

²⁷ <https://twitter.com/BeijingToBrit/status/1503352241301897216?s=20&t=i9IQbRAM32A8HipLXrqEDw>

²⁸ <https://www.gov.uk/government/publications/six-monthly-report-on-hong-kong-1-july-to-31-december-2021>

PRC authorities took actions that eliminated the ability of Hong Kong's pro-democracy opposition to play a meaningful role in the city's governance and effectively criminalized peaceful political expression critical of the central and local governments.

With Beijing's support, Hong Kong authorities continued to use the Law of the PRC on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL) to undermine rights and freedoms, including freedoms protected under the Basic Law and the Sino-British Joint Declaration.²⁹

OTHER DEVELOPMENTS

UN Human Rights Chief to Visit China

Michelle Bachelet, the UN High Commissioner for Human Rights, announced that she would visit China in May, becoming the first person in her position to do so in 17 years. An advance team is expected to visit in April to prepare for her visit.³⁰

Hong Kong protests documentary breaks Taiwan box office record in opening weeks

Revolution of Our Times, directed by Hong Kong film-maker Kiwi Chow, documents the 2019 demonstrations in Hong Kong and has broken a box office record in Taiwan for an overseas Chinese-language documentary, grossing around \$17m NTD (US\$600,000) in the first two weeks of its release.³¹

EU-China summit focuses on Ukraine, but mentions situation in Hong Kong

The 23rd EU-China summit focussed extensively on Russia's military aggression against Ukraine, discussing also the state of bilateral relations and areas of shared interest between the bloc and China.³² The EU raised its concerns regarding the human rights situation in China, as well as the dismantling of the 'one country two systems' in Hong Kong, adding that it expects the resumption of a substantive human rights dialogue to address these concerns.³³

²⁹ <https://www.state.gov/2022-hong-kong-policy-act-report/>

³⁰ <https://www.nytimes.com/2022/03/08/world/europe/un-china-human-rights.html?smid=tw-share>

³¹ <https://www.theguardian.com/world/2022/mar/10/hong-kong-protests-documentary-breaks-taiwan-box-office-record-in-opening-weeks>

³² https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2214

³³ <https://www.consilium.europa.eu/en/meetings/international-summit/2022/04/01/>