

Chilling Effect: Developments in Hong Kong under the National Security Law

SUMMARY

This briefing describes developments in Hong Kong since the National Security Law was enacted on 1 July 2020. The law is a watershed moment in the city, and we have already seen a discernible decline in the city's safeguards for fundamental rights and freedoms.

Arrests

- Since coming into force, the National Security Law has already been used to suppress freedom of expression and assembly both on the streets of Hong Kong and online.
- Individuals in Hong Kong have been arrested for the simple act of posting a statement online or holding a blank piece of paper in a shopping mall in the last few weeks. This demonstrates the arbitrary and repressive nature of this new law and its clear intent to silence dissent.
- By releasing a 'wanted list' of six Hong Kongers abroad who it considers have violated the new law, the Hong Kong Government and the Chinese Communist Party have demonstrated the law's worrying claim to overseas jurisdiction, its retrospective nature, and its ability to target foreign nationals.
- The arrests of Jimmy Lai and senior Apple Daily leadership represents a major blow to freedom of the press.

New security directives

- Not content with the introduction of the vague and draconian National Security Law, the Hong Kong Chief Executive and Beijing officials have moved quickly to announce national security directives without consultation of the Legislative Council or the courts.
- They have justified this with reference to the new law's supremacy over the human rights safeguards in the Basic Law.

Democracy under siege

- The Hong Kong Government and Beijing's representatives in Hong Kong have already used the threat of the National Security Law to quash dissent and undermine democracy by disqualifying pro-democracy candidates, smear primaries which saw over 600,000 Hong Kongers vote as illegitimate and in violation of the law, and use COVID as cover to delay the Legislative Council elections and buy more time to marginalise and silence pro-democracy activists.

Teachers and students in the crosshairs

- The law represents a watershed moment for academic freedom. We have seen the introduction of national security education, new guidelines censoring any expression that could be considered in classrooms and encouraging students and teachers to monitor each other, and the firing of pro-democracy academics. The trends ensure the National Security Law will have an adverse chilling effect on the education sector in Hong Kong.

Targeting the press

- Since the National Security Law has come into force, a growing number of foreign news agencies are reconsidering their future in Hong Kong, particularly as work visas for foreign journalists are being weaponised by the Chinese Government in its international disputes with Western countries.
- The New York Times is the first media organisation to announce that it will begin relocating its staff from Hong Kong to Seoul. There is an expectation that they will not be the last.
- Local pro-democracy outlets are coming under increasing pressure, symbolised most obviously through the arrest of Jimmy Lai and senior Apple Daily executives.

Big tech and the stand-off over the National Security Law

- Technology companies are currently in a stand-off with the Hong Kong and Chinese Government regarding cooperation with law enforcement officials under the National Security Law. There are increased concerns that China's 'Great Firewall' could be extended to Hong Kong, in a similar way that internet censorship has increasingly been introduced to neighbouring Macau.

Recommendations to the international community

- Since the National Security Law came into force, there has been a range of activities from the international community. However, there remain many concrete actions likeminded partners can take to stand up for Hong Kong, including:
 1. ensuring every Hong Konger who needs one has access to a lifeline to study and work abroad as a pathway to citizenship;
 2. campaigning for the suspension of all extradition treaties with Hong Kong and mainland China to ensure no individual will be extradited under this draconian law;
 3. endorsing the creation of a UN Special Envoy/Rapporteur for Hong Kong to monitor and report on the situation on the ground;
 4. and introducing targeted Magnitsky style sanctions on the perpetrators of human rights abuses under this new law.

BACKGROUND: UNDERSTANDING THE NATIONAL SECURITY LAW

Despite criticism from international human rights organisations, lawyers and governments that the unilateral introduction of national security legislation would breach China's obligations under the Sino-British Joint Declaration and the Hong Kong Government's commitments under the International Covenant on Civil and Political Rights (ICCPR), the new law came into force at 11pm on 30th June 2020.

The National Security Law enshrines four vague and broadly defined charges into Hong Kong's legal system. These are:

- secession,
- terrorism,
- subverting state power,
- and colluding with foreign political forces.

In all cases those found guilty face 'life imprisonment or fixed-term imprisonment of more than 10 years for the principle members of the crime.'

A newly established National Security Commission chaired by the Hong Kong Chief Executive, Carrie Lam, will appoint judges to hear national security cases and the law will be enforced by Chinese security officials who will be given powers to operate in Hong Kong for the first time.

The new law claims worldwide criminal jurisdiction over activities abroad. The means that foreign citizens can be prosecuted in absentia for comments that are considered to breach national security. International organisations and corporations found guilty under the National Security Law face a financial penalty and the possibility of being banned from Hong Kong and having their 'business license' revoked.

The rest of this briefing document details how the law has been applied in the 7 weeks since its initial enactment.

APPLICATION OF THE LAW: ARRESTS

1 July 2020

The National Security Law was fast-tracked by the Chinese Communist of Party to ensure that it came into force ahead of the anniversary of the city's handover from British to Chinese rule in 1997.

Since 2003, 1 July has been an important date for large scale protests in Hong Kong. In 2019, 550,000 people turned out for the 1 July March.

This year was no different, despite the law coming into force only a few hours prior and the Hong Kong Police banning the march for the first time ever, thousands took to the street. The Hong Kong Police arrested 370 people, including ten people for violating the new National Security Law.¹

Other arrests in July

On 6 July, protestors holding blank pieces of paper gathered in a shopping mall on Kwun Tong Road were told to disperse by the Hong Kong Police, who held a warning banner stating that protestors may be violating the National Security Law. Eight people were arrested under suspicion of taking part in an unauthorised assembly and refusing to leave the shopping mall.²

Four students aged between 16 and 21 became were arrested under the National Security Law on 30 July for posting content online. 19-year-old ex-convenor Tony Chung, ex-spokesperson Ho Nok-hang, as well as ex-members Yanni Ho and Chan Wai-jin, have been accused by the authorities of posting online content which advocates 'secession'. If found guilty under the National Security Law, all four students face at least ten years in prison.

The four students were detained for 48 hours and are currently released on bail, although all four have been required to surrender their travel documents to ensure they do not leave the city. The Hong Kong Police have also requested the deletion of their social media profiles.³

Following the arrests, the Hong Kong Police Force put out a statement warning people not to break the National Security Law through committing crimes online, writing:

'anyone who commits an unlawful act, whether in the real or in the cyber world, is liable to criminal prosecution.'⁴

¹ <https://www.info.gov.hk/gia/general/202007/01/P2020070200001.htm>

² <https://www.info.gov.hk/gia/general/202007/06/P2020070600801.htm> & <https://hongkongfp.com/2020/07/06/security-law-hong-kong-police-arrest-8-at-blank-placard-silent-protest/>

³ <https://hongkongfp.com/2020/07/31/hong-kong-teen-activist-tony-chung-bailed-told-to-remove-social-media-posts-within-72-hrs-following-security-law-arrest/>

⁴ <https://www.bangkokpost.com/world/1959983/student-arrests-in-hong-kong-deepen-white-terror-fears>

International arrest warrants

On Friday 31 July, the Hong Kong Government and Chinese Communist Party confirmed the retrospective nature of the National Security Law, its worldwide jurisdiction, and its ability to target foreign nationals, by releasing a list of six Hong Kongers abroad who it considers have violated the new law and are 'wanted'.

The list includes exiled Hong Kong activists Nathan Law, Ray Wong, Wayne Chan, Lau Hong, Samuel Chu, and the former UK consulate worker Simon Cheng who was tortured by the Chinese authorities in 2019.⁵ In the cases of Simon Cheng, Ray Wong, and Samuel Chu, all three hold foreign nationalities.

In the specific case of Ray Wong who claimed asylum in Germany in 2018, the alleged evidence that he advocated 'secession' in a foreign newspaper interview and broke the new law predates it coming into force on 30 June 2020, demonstrating its retroactive nature.⁶

10 August 2020

On 10 August, Jimmy Lai, the proprietor of Next Digital and the Apple Daily newspaper, along with his sons and senior colleagues were arrested during a raid by the Hong Kong Police Force. Around 200 police officers raided the offices of Apple Daily to search for evidence.⁷

Simultaneously, three activists were arrested under the National Security Law. Agnes Chow, formerly of Demosisto was arrested. She was previously disqualified from standing for election. Chow's arrest has caused outrage in Japan.⁸

Wilson Li, an ITN journalist, as well as Andy Li, were also arrested. They had previously helped coordinate an international parliamentary Electoral Observation Mission in November 2019 which included UK Parliamentarians like Lord Alton of Liverpool and European Parliamentarians like Miriam Lexmann⁹. If this is the reason that they are charged, then it will be another sign of the retroactive nature of the law, and a major blow to the rule of law.

⁵ <https://www.scmp.com/news/hong-kong/law-and-crime/article/3095615/national-security-law-hong-kong-police-said-seek>

⁶ https://twitter.com/Ray_WongHKL/status/1289240839445569536?s=20

⁷ <https://www.theguardian.com/world/2020/aug/10/hong-kong-media-tycoon-jimmy-lai-arrested-over-alleged-foreign-collusion>

⁸ <https://www.japantimes.co.jp/news/2020/08/11/national/politics-diplomacy/japan-hong-kong-china-arrests/>

⁹ https://twitter.com/Stand_with_HK/status/1293031576419303425

Summary: Since coming into force, the National Security Law has already been used to suppress freedom of expression, freedom of the press and freedom of assembly both on the streets of Hong Kong and online.

The fact that individuals in Hong Kong have been arrested for the simple act of posting a statement online or holding a blank piece of paper in a shopping mall in the last few weeks, demonstrates the arbitrary and repressive nature of this new law and its clear intent to silence all forms of dissent.

By releasing a 'wanted list' of six Hong Kongers abroad who it considers have violated the new law, the Hong Kong Government and the Chinese Communist Party have demonstrated the law's worrying claim to overseas jurisdiction, its retrospective nature, and its ability to target foreign nationals.

The arrests of Jimmy Lai and senior Apple Daily leadership is a major blow to freedom of the press.

APPLICATION OF THE LAW: NEW SECURITY DIRECTIVES

The newly created National Security Commission created to oversee and implement the National Security Law has moved quickly since the law came into force to expand the powers of law enforcement officials within the city.

At the very first meeting of the National Security Commission on 6th July, chaired by the Hong Kong Chief Executive, Carrie Lam, the Commission introduced wide ranging national security directives, including:

- The right for the Hong Kong Police Force and Chinese security officials to search properties of suspects without a warrant: 'A police officer not below the rank of Assistant Commissioner of Police may authorise his officers to enter the relevant place to search for evidence without a warrant.'¹⁰
- Travel restrictions on those suspected of breaching the National Security Law: 'The rules authorise police officers to apply to a magistrate for a warrant to require a person who is suspected to have committed offences endangering national security to surrender his travel document, and to restrict that person from leaving Hong Kong'.¹¹

¹⁰ <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>

¹¹ <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>

- The freezing of assets and forfeiture of property of those suspected of breaching the National Security Law: 'If the Secretary for Security has reasonable grounds to suspect that any property is property related to an offence endangering national security.'¹²
- New powers to force internet providers to remove online content which is deemed to have violated the National Security Law by authorising: 'a designated police officer to request the relevant message publisher(s), platform service provider(s), hosting service provider(s) and/or network service provider(s) to remove the message; restrict or cease access by any person to the message; or restrict or cease access by any person to the platform or its relevant part(s).'¹³
- Requiring foreign political organisations and Taiwan political organisations to provide information on activities regarding Hong Kong: 'If the Commissioner of Police reasonably believes that it is necessary for the prevention and investigation of an offence endangering national security.'¹⁴
- New powers to intercept communications and undertake covert surveillance on those suspected of violating the National Security Law: 'To effectively prevent and detect offences endangering national security and protect the confidentiality of information related to national security, all applications for interception of communications and covert surveillance operations must be approved by the Chief Executive.'¹⁵

Under the new National Security Directives, the four students aged between 16 and 21 who were arrested under the National Security Law on 30th July for posting content online, had their homes searched without a warrant, were subject to covert surveillance and forced to share their digital communications with the police, were forced to surrender their travel documents, and internet providers were asked to delete content they have published online by the Hong Kong Police.¹⁶

In response to these new directives, the Taiwanese Government withdrew its envoy to Hong Kong citing 'unnecessary political obstacles'.¹⁷

¹² <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>

¹³ <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>

¹⁴ <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>

¹⁵ <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>

¹⁶ <https://hongkongfp.com/2020/07/31/hong-kong-teen-activist-tony-chung-bailed-told-to-remove-social-media-posts-within-72-hrs-following-security-law-arrest/>

¹⁷ <https://asiatimes.com/2020/07/taiwans-hong-kong-envoy-forced-to-leave/>

On the 31st July, the head of Hong Kong's public prosecutions resigned from his post after being cut out of the handling of national security cases by the Justice Secretary, telling the press that differences of opinion with the Justice Secretary and his 'participation in those matters' no longer being required led to him leaving his post.¹⁸

Summary: Not content with the introduction of the vague and draconian National Security Law, the Hong Kong Chief Executive and Beijing officials have moved quickly to announce national security directives without consultation of the Legislative Council or the courts. They have justified this with reference to the new law's supremacy over the human rights safeguards in the Basic Law.

DEMOCRACY UNDER SIEGE

Since coming into force, the National Security Law and wider emergency measures have been used to undermine and challenge Hong Kong's democratic process. The Hong Kong Government and Beijing's representatives have not only used the law to disqualify and threaten pro-democracy lawmakers and candidates, but also as a pretext to postpone the Legislative Council elections which were due to take place in September.

Primary elections

On 10th July, ahead of primary elections organised by pro-democracy parties in Hong Kong to select their candidates for the upcoming Legislative Council elections, Hong Kong police officers raided the offices of the Public Opinion Research Institute responsible for co-organising the primary, citing 'dishonest use of computers and data'.¹⁹

The pro-democracy primary elections held on 11th and 12th July saw over 600,000 Hong Kongers turn out to vote. The high turnout reflected the fact that the primary election was the first opportunity Hong Kongers had since the law came into force to register their opposition through the ballot box.

Responding to the primary election turnout, Hong Kong's Chief Executive Carrie Lam said that those who took part may have violated the National Security Law 'by subverting state power'.²⁰

¹⁸ <https://uk.reuters.com/article/uk-hongkong-security-prosecutions-resign/hong-kongs-top-public-prosecutor-quits-says-he-was-cut-out-of-new-national-security-cases-idUKKCN24W1QI?il=0>

¹⁹ <https://hongkongfp.com/2020/07/10/breaking-hong-kong-police-raid-office-of-pro-democracy-camp-primary-election-co-organisers-pori-seize-pcs/>

²⁰ <https://www.scmp.com/video/hong-kong/3093045/hong-kong-leader-carrie-lam-says-primary-election-might-have-violated>

Beijing's Liaison Office in Hong Kong went further, putting out a press release calling the primaries 'illegal' saying that such activities 'violate the National Security Law'²¹ and singling out one of its organisers, Benny Tai, by accusing him of colluding with foreign agents:

'Tai was sentenced to prison for 16 months due to illegal activities in the 'Occupy Central,' and now he is on bail. But he can still openly manipulate local elections. Who gave him the order? Who has offered him the courage?'²²

The accusations of breaching the National Security Law from the Chief Executive and Beijing's Liaison Office led to one of the Primary Elections organisers, the former lawmaker Au Nok-hin, to resign his position citing concern for his personal safety.²³

Disqualifications of democrats

On 30th July, the Hong Kong Government disqualified 12 pro-democracy candidates from standing in the Legislative Council elections in September, the main reason cited for this mass political screening was that the candidates in question expressed 'an objection in principle' to the imposition of the national security law by the central authorities in Beijing.²⁴

The other reasons given for the disqualification of the 12 candidates, which included the pro-democracy activist Joshua Wong, included allegations that they supported secession, solicited intervention from foreign governments in Hong Kong affairs (both of which would fall under the National Security Law), and expressed an intention to exercise functions as Legislative Council elections to vote down 'any legislative proposals' from the Government.²⁵

Commenting on the disqualifications, Lord Patten of Barnes, the last British governor of Hong Kong and a patron of Hong Kong Watch, said: 'This is an outrageous political purge of Hong Kong's democrats. The National Security law is being used to disenfranchise the majority of Hong Kong's citizens. It is obviously now illegal to believe in democracy, although this was what Beijing promised in and after the Sino-British Joint Declaration. This is the sort of behaviour that you would expect in a police state.'²⁶

²¹ <https://www.globaltimes.cn/content/1194438.shtml>

²² <https://www.globaltimes.cn/content/1194438.shtml>

²³ https://www.scmp.com/news/hong-kong/politics/article/3093253/national-security-law-former-hong-kong-lawmaker-who-helped?utm_source=Twitter&utm_medium=share_widget&utm_campaign=3093253

²⁴ <https://www.bbc.com/news/world-asia-china-53593187>

²⁵ <https://www.bbc.com/news/world-asia-china-53593187>

²⁶ <https://www.hongkongwatch.org/all-posts/2020/7/30/patten-attacks-outrageous-political-purge-on-hong-kongs-democrats-following-disqualifications>

Postponement of elections

Not content with disqualifying pro-democracy candidates from running in the Legislative Council elections, the following day the Chief Executive announced the Hong Kong Government's intention to postpone the Legislative Council elections for a year citing public health concerns.²⁷

Invoking colonial-era Emergency Regulations Ordinance, the Chief Executive referred the decision regarding the status of the current Legislative Council to the Chinese National People's Party Congress.²⁸

The decision to suspend elections on public health grounds was made despite Hong Kong having a lower amount of COVID daily case numbers and total case numbers than many countries that have recently held elections, including Singapore, France, Poland, North Macedonia, and Serbia.²⁹

Responding to the disqualification of pro-democracy candidates and the postponement of the Legislative Council elections, the US, UK, EU, and Japanese Government³⁰ all released statements raising their concern and calling for the elections to take place in a free and fair manner as close to the original September date. As did 69 parliamentarians from 17 countries as part of the Inter-Parliamentary Alliance on China.³¹

Summary: The Hong Kong Government and Beijing's representatives in Hong Kong have already used the threat of the National Security Law to quash dissent and undermine democracy by disqualifying pro-democracy candidates, smear primaries which saw over 600,000 Hong Kongers vote as illegitimate and in violation of the law, and use COVID as cover to delay the Legislative Council elections and buy more time to marginalise and silence pro-democracy activists.

²⁷ <https://www.scmp.com/news/hong-kong/politics/article/3095461/hong-kong-legislative-council-elections-be-postponed>

²⁸ <https://www.scmp.com/news/hong-kong/politics/article/3095461/hong-kong-legislative-council-elections-be-postponed>

²⁹ <https://www.scmp.com/news/hong-kong/politics/article/3095461/hong-kong-legislative-council-elections-be-postponed>

³⁰ <https://www.gov.uk/government/news/foreign-secretarys-statement-on-hong-kong-election-disqualifications>, <https://www.scmp.com/news/china/diplomacy/article/3095694/us-china-relations-mike-pompeo-urges-hong-kong-reverse>, https://eeas.europa.eu/headquarters/headquarters-homepage/83720/declaration-high-representative-behalf-eu-postponement-legislative-council-elections-hong-kong_en, & <https://www.thestandard.com.hk/breaking-news/section/4/152354/Japan-urges-HK-to-hold-free-and-fair-election>

³¹ <https://www.hongkongwatch.org/all-posts/2020/7/30/69-inter-parliamentary-alliance-on-china-mps-from-17-countries-issue-joint-statement-on-hong-kong-disqualifications>

TEACHERS AND STUDENTS IN THE CROSSHAIRS

The Hong Kong education system has been one of the main targets since the passage of the National Security Law. The Hong Kong government want not only to silence dissent on the streets but also in the classrooms.

Following the law's introduction, the Hong Kong Education Secretary, Kevin Leung, announced new guidance to ensure that 'no 'political propaganda' activities are allowed in schools. The guidance banned students playing, singing, or broadcasting protest songs.³²

Tommy Cheung, a pro-Beijing member of Hong Kong's legislative council, called for surveillance cameras to be introduced into classrooms to ensure teachers and students comply with the National Security Law.³³ This has not yet been instituted, but remains a potential threat.

Schools, alongside public libraries, have been required to remove books from pro-democracy activists, including those written by Joshua Wong.³⁴

New 'national security base'

On 17th July, the Chinese Government announced the opening of a new national security base in the neighbouring city of Shenzhen which will give 'patriotic lessons' to rebellious Hong Kong students. Du Ling, a senior party official in Shenzhen, said the base would 'plant seeds of national identity and patriotic spirit in the hearts of more Hong Kong and Macau youth'.³⁵

The new national security base is part of the Hong Kong Government's mandate under the National Security Law to ensure that national security education is implemented in schools, and that Hong Kong students more closely identify with the Communist Party's values.

Removing 'bad apples'

As part of the Chinese Government's overhaul of Hong Kong's education system through the National Security Law, Hong Kong's Security Minister, John Lee Ka-chiu, has called for tighter management' of schools to remove teachers who are considered the 'bad apples'.³⁶ Students

³² <https://hongkongfp.com/2020/07/08/no-one-in-hong-kong-schools-should-hold-any-activities-to-express-their-political-stance-says-education-chief-as-protest-song-banned/>

³³ <https://www.thetimes.co.uk/article/hong-kong-call-for-spy-cameras-in-classrooms-cjrmtnv09>

³⁴ <https://edition.cnn.com/2020/07/07/china/hong-kong-schools-national-security-intl-hnk/index.html>

³⁵ <https://www.thetimes.co.uk/edition/world/china-launches-patriotism-lessons-for-rebellious-hong-kong-youth-mwx7g0rls>

³⁶ <https://www.scmp.com/news/hong-kong/education/article/3095434/hong-kong-national-security-law-schools-get-new-teaching>

and teachers are being encouraged to report teachers who are ‘insufficiently patriotic’ or in violation of the National Security Law.

Universities under fire

The ongoing purge of teachers and students who do not comply with the new law has not been restricted to secondary schools. Prominent pro-democracy activists who are academics have found themselves from teaching posts as a result of pressure from the Hong Kong Government.

The Hong Kong Baptist University on 27th July announced that it would not be renewing the lecture contract of the opposition lawmaker Shiu Ka-chun, citing his previous conviction or participating in the Yellow Umbrella protests in 2014.³⁷

A day later (on 28th July), the University of Hong Kong’s governing body sacked Benny Tai over his previous criminal conviction for organising the Yellow Umbrella protests and his role in helping co-organise the pro-democracy primaries. Responding to his dismissal, in a statement, Tai warned that ‘it marks the end of academic freedom in Hong Kong’, and that: ‘academic institutions in Hong Kong cannot protect their members from internal and outside interferences.’³⁸

Beijing’s Liaison Office welcomed the move, putting out a statement that ‘Tai has used the sacred position of an educational institution to spread fallacies and confuse right and wrong, as well as promote illegal [activities] which had misled and poisoned a group of young people.’³⁹

Summary: The law represents a watershed moment for academic freedom. We have seen the introduction of national security education, new guidelines censoring any expression that could be considered in classrooms and encouraging students and teachers to monitor each other, and the firing of pro-democracy academics. The trends ensure the National Security Law will have an adverse chilling effect on the education sector in Hong Kong.

³⁷ <https://www.scmp.com/news/hong-kong/politics/article/3094908/hong-kong-protests-baptist-university-refuses-renew>

³⁸ <https://www.reuters.com/article/us-hongkong-security/hong-kong-university-sacks-veteran-democracy-activist-idUSKCN24T1VN>

³⁹ <https://www.scmp.com/news/hong-kong/politics/article/3095043/university-hong-kong-governing-council-sacks-legal-scholar>

TARGETING THE PRESS

Since the National Security Law has come into force, press freedom has come under significant pressure.

Foreign media

Foreign journalists based in Hong Kong have increasingly found themselves the subject of threats of retaliation by the Chinese Government in response to international condemnation of the law.

In Hong Kong, several media outlets have published reports about delays in issuing new or renewed visas to journalists working in the city. The delays have affected journalists of multiple nationalities and in some cases have prevented journalists from working. The delays are highly unusual for Hong Kong, a city with historically robust press protections.⁴⁰

The Foreign Correspondents' Club in Hong Kong has warned that visas for foreign journalists' risk being weaponised in international disputes between the Chinese Government and Western countries, particularly the US.⁴¹

The editor of China's state-owned Global Times newspaper has suggested American journalists based in Hong Kong will be targeted in retaliation for the Trump administration's actions against Chinese journalists in the U.S. On 4th August, a spokesman for the Chinese Ministry of Foreign Affairs warned of 'necessary and timely countermeasures' in response to 'the unreasonable suppression of Chinese media outlets in the U.S.'⁴²

In response to the National Security Law, the New York Times announced that it plans to relocate its staff in Hong Kong to Seoul. In an internal memo to staff, the Times editors and executives wrote that 'China's sweeping new national security law in Hong Kong has created a lot of uncertainty about what the new rules will mean to our operation and our journalism,' with that in mind 'we feel it is prudent to make contingency plans and begin to diversify our editing staff around the region.'⁴³

⁴⁰ <https://www.fcchk.org/fcc-statement-on-journalist-visas-in-hong-kong/>

⁴¹ <https://www.fcchk.org/fcc-statement-on-journalist-visas-in-hong-kong/>

⁴² <https://www.scmp.com/news/china/diplomacy/article/3096020/beijing-wont-rule-out-targeting-us-journalists-hong-kong-over>

⁴³ <https://www.nytimes.com/2020/07/14/business/media/new-york-times-hong-kong.html?auth=login-google>

The decision by the New York Times to move out of Hong Kong, followed the decision by the Hong Kong Government not to renew the work visa for Chris Buckley, a veteran China correspondent of The Times.⁴⁴

Local media

The arrests of Jimmy Lai and other senior figures in Apple Daily is a significant blow to press freedom in the city.

Apple Daily is the city's most prominent daily Cantonese pro-democracy newspaper. The newspaper has historically been under serious pressure from pro-Beijing figures in Hong Kong. Chinese companies have boycotted the firm, and other businesses have come under pressure to boycott advertising. Jimmy Lai has been subject to significant pressure and harassment from pro-Beijing tabloids in the city.

But the daily operations of Apple Daily have been able to continue running successfully, and they historically provided a distinctive pro-democracy voice in Hong Kong's press. Lai's arrest may be a watershed. If the promotion of opposition ideas becomes seen to be subversive or secessionist then this may signal the end of freedom of the press in Hong Kong.⁴⁵

Summary: Since the National Security Law has come into force a growing number of foreign news agencies are reconsidering their future in Hong Kong, particularly as work visas for foreign journalists are being weaponised by the Chinese Government in its international disputes with Western countries. The New York Times is the first media organisation to announce that it will begin relocating its staff from Hong Kong to Seoul. There is an expectation that they will not be the last. Local pro-democracy outlets are coming under increasing pressure, symbolised most obviously through the arrest of Jimmy Lai and senior Apple Daily executives.

BIG TECH AND THE STAND-OFF OVER THE NATIONAL SECURITY LAW

In the wake of the National Security Law, Facebook, Google, WhatsApp, Twitter, LinkedIn, Zoom, and Telegram all announced that they would suspend co-operating with requests from law enforcement officials in Hong Kong, as they increasingly come under pressure to hand over their user data.

⁴⁴ <https://www.nytimes.com/2020/07/14/business/media/new-york-times-hong-kong.html?auth=login-google>

⁴⁵ <https://theconversation.com/killing-the-chicken-to-scare-the-monkey-what-jimmy-lais-arrest-means-for-hong-kongs-independent-media-144206>

TikTok announced on 7th July that it would no longer operate in Hong Kong as a result of the new law.⁴⁶

Microsoft and Apple, both of which have huge business interests in mainland China, have yet to publicly state whether it will cooperate with law enforcement officials under the new law. Google, Amazon Web Services and Microsoft recently refused to agree to a proposal that would give Hong Kong regulators access to customer banking records: this raised tensions between tech companies in the city and the Hong Kong Government.⁴⁷

There is increasing concerns that China's 'Great Firewall' which censors the internet, will be expanded to Hong Kong now the new law is in place.

Critics point to neighbouring Macau, which adopted national security legislation in 2009 and last year implemented a Cyber Security Law, which requires internet providers to censor 'prohibited information' and remove online anonymity of internet users.⁴⁸

Summary: Technology companies are currently in a stand-off with the Hong Kong and Chinese Government regarding cooperation with law enforcement officials under the National Security Law. There are increased concerns that China's 'Great Firewall' could be extended to Hong Kong, in a similar way that internet censorship has increasingly been introduced to neighbouring Macau.

THE INTERNATIONAL COMMUNITY'S RESPONSE

The implementation of the National Security Law has seen a range of actions from the international community in response:

- At the UN Human Rights Committee in Geneva, 27 countries signed a joint-statement condemning the introduction of the National Security Law and calling for the Chinese Government to reconsider.

⁴⁶ <https://news.sky.com/story/china-tiktok-will-no-longer-operate-in-hong-kong-due-to-national-security-law-12022768>

⁴⁷ <https://www.ft.com/content/77702487-0cec-4d88-990e-ffbcc69bf9df>

⁴⁸ <https://www.globaltimes.cn/content/1174441.shtml> & <https://www.hrw.org/news/2016/11/06/china-abusive-cybersecurity-law-set-be-passed>

- In the UK, the Foreign Secretary immediately confirmed that the UK Government would offer all three million Hong Kongers entitled to British National Overseas passport status a pathway to citizenship in the UK.
- The UK, US, Canada, Australia, New Zealand, Germany, and France, have all responded by suspending their extradition treaties with Hong Kong, and Finland, the Netherlands, and Ireland have confirmed they are also reviewing extradition.
- Canada, the UK, USA, and the EU, have extended export controls on arms and sensitive technology from mainland China to include Hong Kong.
- Australia has announced a graduate visa program for current and future Hong Kong students as a pathway to citizenship and as part of an International Lifeboat Scheme. Canada and European Union Member States have also agreed to follow suit and make it easier for Hong Kongers to study and work in Europe.
- The US Congress has passed the Hong Kong Autonomy Act, which requires the US Government to compile a list of Hong Kong and Chinese officials who should be subject to sanctions for violating Hong Kong's autonomy under the National Security Law. The Hong Kong Safe Harbor Act has also been introduced, which would offer refugee status in the USA for Hong Kongers who face political persecution if they stay in the city.
- President Trump responded to the law coming into force by signing an executive order on 14th July cancelling the territory's special status under the US-Hong Kong Policy Act (1992), ending Hong Kong's unique customs status and differential treatment of exports.
- The 'Five Eyes alliance' issued a statement criticising the postponement of Hong Kong's elections.⁴⁹

RECOMMENDATIONS

There remain many concrete actions likeminded partners can take to stand up for Hong Kong, including:

- **ensuring every Hong Konger who needs one has as access to a lifeline to allow them to study and work abroad as a pathway to citizenship;**
- **campaigning for the suspension of all extradition treaties with Hong Kong and mainland China to ensure no individual will be extradited under this draconian law;**
- **endorsing the creation of a UN Special Envoy/Rapporteur for Hong Kong to monitor and report on the situation on the ground;**

⁴⁹ <https://www.dw.com/en/five-eyes-alliance-slams-postponement-of-hong-kong-polls/a-54504993>

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- **and introducing targeted Magnitsky style sanctions on the perpetrators of human rights abuses under this new law.**